

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

Case:- CRM(M) No. 686/2023

Reserved on 24.09.2025
Pronounced on 17.10.2025
Uploaded on 17.10.2025

**Abdul Qayoom Age 65 years,
S/o Sh. Abdul Aziz,
R/o Ward No. 4, H. No. 6,
Near Police Line, Rajouri,
Tehsil and District Rajouri**

.....Petitioner (s)

Through: Mr. Ayushman Kotwal, Advocate

vs

- 1. Union Territory of Jammu and Kashmir
through Station House Officer, Police Station,
Rajouri.**
- 2. Abdul Aziz, S/o. Sh. Ilam Din,
R/o. Ward No. 4, Near Police Line, Rajouri,
Tehsil and District Rajouri**

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGEMENT

Submissions on Behalf of Petitioner

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed seeking quashment of FIR No. 0057/2023 dated 07.02.2023, registered under Sections 420, 467, 468 IPC at Police Station Rajouri, lodged at the instance of respondent No.2, who is embroiled in a long-standing civil dispute with the petitioner and his brother, namely Mukhtar Ahmed, in various courts at Rajouri concerning ancestral property disputes.
2. It is submitted that the impugned FIR has been filed with mala fide intent and is a gross abuse of the process of law, orchestrated by respondent No.2 in collusion with Mukhtar Ahmed, to settle personal scores by giving a criminal colour to a purely civil dispute.

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3. Learned counsel further contends that prior to registration of the FIR, respondent No.2 had submitted a written complaint dated 30.01.2023 before the Executive Magistrate 1st Class / Tehsildar, Rajouri, seeking directions for registration of an FIR against the petitioner for alleged forgery of revenue records relating to Khasra Nos. 646, 524, 525, and 643. Acting upon the said complaint, the Executive Magistrate made an endorsement directing the SHO, Police Station Rajouri to "look into the matter under law", based on which the impugned FIR was registered.
4. It is vehemently argued that the Executive Magistrate has no authority in law under the Code of Criminal Procedure to direct the police to register an FIR, and such power vests solely with a Judicial Magistrate under Section 190 read with Section 156(3) CrPC. Hence, the direction by the Tehsildar and the consequent registration of the FIR is without jurisdiction, and the entire process stands vitiated in the eyes of law.
5. In support of this submission, learned counsel for the petitioner Mr. Ayushman Kotwal relies upon various judgments of the Hon'ble Supreme Court, asserting that the Executive Magistrate is not empowered to assume the judicial functions of a Magistrate under the Code of Criminal Procedure, and any act performed outside the scope of this authority amounts to an abuse of process of law.
6. It is further submitted that even if the allegations in the FIR are taken at face value, they do not disclose any cognizable offence against the petitioner, and the ingredients of Sections 420, 467, and 468 IPC are

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not made out. The dispute essentially pertains to partition and possession of ancestral property, for which civil proceedings are already pending between the parties.

7. Learned counsel also places reliance upon the law laid down by the Hon'ble Supreme Court in "**State of Haryana & Ors v. Bhajan Lal**" (1992 Supp (1) SCC 335), particularly with respect to the categories carved out therein where an FIR can be quashed, asserting that the present case squarely falls within those parameters, as the FIR has been lodged with an oblique motive to harass and humiliate the petitioner. Additionally, reliance is placed on the judgment of the Hon'ble Apex Court in **Naman Singh Alias Naman Pratap Singh & Another v. State of Uttar Pradesh & Another (Criminal Appeal No. 1620 of 2018)**.
8. It is argued that the inherent powers of this Hon'ble Court under Section 482 CrPC, though to be exercised sparingly, may be exercised in the present case to prevent a miscarriage of justice and an abuse of process of law.
9. Lastly, it is submitted that the allegations are inherently absurd and improbable, and there exists no material whatsoever which would prima facie justify initiation or continuation of criminal proceedings against the petitioner. The registration of the FIR is nothing but a malicious attempt to pressurize the petitioner by converting a civil dispute into a criminal case.
10. Accordingly, it is prayed that the impugned FIR No. 0057/2023 dated 07.02.2023 registered at Police Station Rajouri be quashed in exercise

of the inherent jurisdiction of this Hon'ble Court under Section 482 CrPC.

Submission On Behalf Of Respondent

11. ***Per contra*** Mrs. Monika Kohli learned senior AAG on behalf of respondents vehemently argued that the present petition is misconceived and devoid of any merit. The petitioner has assailed FIR No. 0057/2023 dated 07.02.2023 registered under Sections 420, 467, and 468 of the IPC on the sole ground that the Executive Magistrate, 1st Class, Rajouri, had allegedly directed the registration of the FIR and, therefore, was the complainant in the case. This contention is factually incorrect and legally untenable.
12. On 07.02.2023, one Abdul Aziz approached the Executive Magistrate 1st Class, Rajouri, alleging that the petitioner Abdul Qayoom had forged his signatures on an affidavit pertaining to land bearing Khasra Nos. 643/525/524/646 at Rampur, Rajouri, and by doing so, had unlawfully inserted his own name and tampered with the record. The said application, annexed by the petitioner as Annexure-II (Page No. 19), bears a noting by the Executive Magistrate addressed to the SHO, Police Station Rajouri, stating “***to kindly look into the matter.***”
13. The learned counsel for the respondents submits that a bare perusal of the said noting clearly establishes that the Executive Magistrate did not issue any direction for registration of the FIR. The Magistrate merely forwarded the complaint to the concerned SHO for appropriate action in accordance with law. The SHO, upon receiving such information disclosing the commission of a cognizable offence, acted

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under Section 154 of the Cr.P.C. and registered the FIR. Thus, the registration of FIR was an independent act of the police authority, and not on the directions of the Executive Magistrate.

14. It is a settled proposition of law that when information relating to the commission of a cognizable offence is received by a police officer, it is mandatory for him to register an FIR and proceed to investigate the matter. The police officer is not required to await a formal complaint or direction from any authority, including a Magistrate. Therefore, the action of the SHO in registering the FIR is in consonance with law.
15. It is further submitted that reliance placed by learned counsel for the petitioner on judgment passed by the Hon'ble Apex Court in case titled as ***Naman Singh Alias Naman Pratap Singh Another v. State of Uttar Pradesh And Another Criminal appeal no.1620 of 2018***, pertaining to Section 156(3) Cr.P.C. is wholly misplaced. The present matter does not pertain to any application or order issued under Section 156(3) of the Cr.P.C., which confers upon a Magistrate the authority to direct a police investigation. In the instant case, the application was merely forwarded for verification, and therefore, the ratio decidendi of the cited judgment is not applicable to the facts of the case in hand.
16. In the present case, the Executive Magistrate 1st Class has neither exceeded his jurisdiction nor committed any procedural irregularity. The police, upon receiving credible information regarding a cognizable offence, acted strictly within the ambit of law. The FIR thus registered is valid, and the investigation is lawful.

17. Heard learned counsel for the parties and perused the record.

LEGAL ANALYSIS

18. The petitioner has invoked this Hon'ble Court's extraordinary jurisdiction on the basis, that the FIR was registered without competent authority and that the underlying dispute is essentially civil in nature, disguised as allegations of a criminal nature. In addressing these contentions, the Court must first clarify the legal position with respect to the role of the Executive Magistrate and the process of registration of FIR under the Code of Criminal Procedure.
19. Under Section 154 of the CrPC, it is mandatory for a police officer to register an FIR when information received by him discloses the commission of a cognizable offence. This obligation arises directly from the statutory language of Section 154(1) and the same was firmly established by the Hon'ble Supreme Court in **Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1**, where it was held that the police officer has no discretion in such cases. The Hon'ble Apex Court in **Lalita Kumari's case(supra)** has also clarified that any preliminary inquiry, if at all needed, must be confined to exceptional cases, and should not be used to delay registration of the FIR. In the present case, it is not disputed that the complaint lodged by the informant disclosed allegations of forgery, manipulation of public records, and impersonation, which prima facie fall under Sections 420, 467, and 468 IPC all cognizable offences. Therefore, the police officer was under a statutory duty to register the FIR, independent of any direction or formal order from any authority, judicial or executive.

20. With respect to the argument regarding the Executive Magistrate's role, it is a settled position in law that only a Judicial Magistrate is empowered under Section 156(3) CrPC to direct investigation into a cognizable offence. However, the material on record clearly reflects that the Executive Magistrate (Tehsildar) did not exercise or purport to exercise any judicial function under the CrPC. His endorsement on the complaint merely stated that the matter be "looked into under law" by the concerned SHO, which is a routine administrative act of forwarding a citizen's grievance to the police for verification or appropriate action. Such forwarding cannot, by any legal construction, be equated with a judicial directive under Section 156(3) CrPC, nor can it be said to vitiate the legality of the FIR subsequently registered by the police. The Hon'ble Supreme Court has consistently held that any person, including an executive magistrate or private individual, can bring information of a cognizable offence to the police, and once such information is received, the police must act in accordance with Section 154 CrPC.
21. As regards the petitioner's argument that the FIR stems from a civil dispute, the law is equally well-settled that the existence of a parallel civil remedy does not, by itself, bar the registration or investigation of a criminal case if the allegations disclose the ingredients of a cognizable offence. In **Mohd. Ibrahim and Others v. State of Bihar**, (2009) 8 SCC 751, the Hon'ble Supreme Court reiterated that "*even in cases involving property disputes, where fraudulent conduct such as forgery, cheating, or impersonation is alleged, criminal liability may still arise independent of any civil proceedings. Thus, the mere*

pendency of civil suits between the parties relating to ancestral property cannot be a ground to quash criminal proceedings, if the FIR discloses allegations which prima facie make out offences punishable under the IPC.”

22. In the instant case, allegations that the petitioner forged an affidavit and tampered with revenue records to insert his name by falsifying signatures and entries, if proven, would certainly attract these provisions. Whether these allegations are ultimately established or not is a matter of evidence and trial, and not within the scope of scrutiny at the stage of a petition under Section 482 CrPC. At this juncture, the Court is only required to assess whether the allegations taken at face value disclose the commission of a cognizable offence. The standard of judicial review at this stage is not equivalent to an inquiry into the truth or sufficiency of the evidence.
23. The reliance placed by the learned counsel on behalf of the petitioner on the judgment in case titled as ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, while noted, is inapposite to the facts and circumstances of the present case. The Bhajan Lal case(Supra) does lay down categories where FIRs may be quashed, such as where the allegations are inherently improbable, manifestly false, or where the criminal proceedings are clearly mala fide. However, the Hon’ble Court also cautioned that such powers must be exercised with circumspection, especially when serious allegations exist that warrant investigation. In the present case, the allegations of forgery, impersonation, and tampering with public documents cannot be

termed inherently absurd or patently false on the face of the FIR. The FIR discloses a plausible narrative that warrants investigation. Whether the allegations are borne out by evidence or whether the petitioner had any *mens rea* are issues to be tested during investigation or trial, not in the instant quashment petition.

24. Thus, there is no abuse of the process of law is apparent on record, nor is there any compelling reason for this Court to exercise its inherent jurisdiction under Section 482 CrPC to interdict the criminal process at this preliminary stage. The FIR, being based on allegations that disclose cognizable offences, is legally valid, and the investigation flowing from it is justified under the statutory scheme of the CrPC.

25. In view of the foregoing discussion and the settled legal position, it is evident that the FIR in question discloses the commission of cognizable offences and has been registered in accordance with the statutory mandate under Section 154 CrPC. The Executive Magistrate did not exercise any judicial authority to direct the registration of the FIR, but merely forwarded the complaint to the Police for appropriate action, which was duly followed. The petitioner's attempt to cloak a civil dispute in criminal allegations does not warrant quashing of the FIR at this stage, as the allegations *prima facie* disclose offences punishable under the Indian Penal Code. There is also no material before this Court to indicate that the FIR has been lodged with *mala fide* intent or is an abuse of the process of law.

26. Accordingly, the instant petition is devoid of merit and is hereby **dismissed** along with all connected applications. The respondents are

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directed to proceed with the investigation in accordance with law and without unnecessary delay.

(Wasim Sadiq Nargal)
Judge

Jammu:
17 .10.2025
Nikhil

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No

