

Sr. No.

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

CRM(M) No. 949/2022

Pronounced on: 28.10.2025

Parveen Akhter

.....Petitioner(s)

Through: Mr. Gagan Basotra, Sr. Advocate with
Mr. M. Nadeem Bhat, Advocate

Vs

UT of J&K & Anr

..... Respondent(s)

Through: Mr. Pawan Dev Singh, Dy AG for R-1
Mr. Deepak Sharma, Advocate for R-2
Respondent No.2 present in person too.

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

JUDGMENT

1. Through the medium of the instant petition filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973 (now repealed but applicable in the case & hereinafter referred to as '***the Code***' for ***shor***), the petitioner has sought quashment of the FIR No. 240/2022 dated 15.09.2022 registered with Police Station Trikuta Nagar, Jammu under Sections 389, 186 of the Indian Penal Code, 1908 (now repealed but applicable in the case & hereinafter referred to as '***IPC***' for ***short*** as also of the preceding order dated 02.09.2022 passed by the Court of learned Railway Magistrate (Sub-Judge), Jammu (hereinafter referred to as '***the Magistrate***' for ***short***), on the grounds *inter alia* that she is a domicile of UT of J&K and a citizen of India, thus, entitled to the protection of all the legal, statutory and constitutional rights; that the impugned FIR is the outcome of a false, frivolous and baseless complaint filed by the respondent No.2 to implicate

her so as to wreak vengeance; that the impugned case FIR was registered by the respondent No.1 on the basis of the order dated 02.09.2022 of the learned trial Magistrate while misusing the same as the, said order dated 02.09.2022 of the learned trial Magistrate authorized the registration of the FIR only in case of disclosure of cognizable offence's from the complaint of respondent No.2 upon the verification of the same; that the respondent No.1 was not justified in registration of the impugned case FIR in view of its own Action Taken Report dated 29.08.2022 submitted to the learned trial Magistrate in which it was mentioned that the respondent No.2/complainant has not approached the Police Station despite repeated calls; that the impugned FIR is the counter blast of the FIR No. 214/2022 dated 17.08.2022 registered with Police Station Bahu Fort, Jammu on the complaint of the petitioner against the respondent No.2 and some others under Sections 498-A IPC and 3 & 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019; that the respondent No.2/complainant in connivance with her husband and by employing abetment got Tripple Divorce pronounced upon her only with intention to save her husband from payment of the maintenance; that she from the date of her marriage has been subjected to harassment by her in-laws family including the respondent No.2 who happens to be the cousin of her husband; that the respondent No.2/complainant has sexually harassed her many a times right from the date of her marriage who still time and again requests her for sexual relationship, upon the refusal for which he instigated her husband for pronouncing Tripple Talak upon her; that she filed a complaint against respondent No.2 on 25.08.2022 seeking action against him for his

harassment to her on account of illicit motive; that the impugned case FIR is nothing but a flagrant abuse of process of law and is apparently actuated by *mala fides* to wreck vengeance on her; that on the alleged incident day, the respondent No.2/complainant who is a Senior Law Officer posted in the office of Chief Engineer PWD(R&B), Jammu called her in his office for compromise and when she visited his office, he threatened her that in case she does not immediately withdraw the FIR registered against him, she will be implicated in a false and frivolous case; that the learned Magistrate in view of the Action Taken Report, called by him ought not to have given the liberty to the respondent No.1 to register the FIR; that the impugned case FIR in view of the guidelines laid down by the Hon'ble Apex Court through a series of authoritative judgments for the guidance of the High Courts' while exercising jurisdiction under the provisions of Article 226 of the Constitution of India and Section 482 of the Code corresponding to Section 528 BNSS, deserves its quashment as being abuse of process of law and actuated by the *mala fides* to wreck vengeance and that the impugned order dated 02.09.2022 of the learned Magistrate basing the impugned case FIR is outcome of the non-application of mind with delegation of his powers by the said Magistrate to the respondent No.1.

2. The respondent No.2/complainant has filed his reply/objections to the petition and has resisted the same on the grounds that he is a devoted family man commanding great respect in the society with unblemished career, who is working as a Senior Law Officer presently posted in the office of Chief Engineer, PWD, Jammu. That the petitioner is a high-handed person having a quarrelsome behavior who even while serving in

the police department was once terminated from her services for causing misbehavior and committing mischievous activities. That the petitioner is among his distant relatives who has married to his first cousin, namely, Mohd. Khalil Mir residing in Village Kotain, Tehsil Mendhar, District Poonch. That the petitioner and her husband out of some family/matrimonial disputes between them have been litigating against each other before various Courts of law including the Family Courts. That he despite being approached by the husband of the petitioner as his first cousin, did not give him any legal advice for proceeding against the petitioner and instead always suggested him to settle the dispute amicably within the four corners of their home. That as per the information received by him from the common relatives, the marriage between the two has now been dissolved. That on 18.08.2022 at around 2.15 pm, the petitioner came to his office in her uniform at Jammu and while he was engaged in his official work. That she barged into his cabin and without saying anything started hurling abuses and highly derogatory words on him. That petitioner shouted at his office saying that he has given the legal assistance to her husband for facilitating divorce upon her thereby ruining her life as well as the life of her children. That the petitioner despite being asked by him at his office to cool down and clear her misunderstanding but she threw all official files and papers lying on the table thereby obstructing him in the discharge of his official functions and she also threatened him to either pay ₹ 5.00 lacs for causing her divorce or else she will not spare him for all this. That the petitioner also threatened of involving him in alleged rape case by misusing her position as an ASI in the Police Department. That he

thereafter approached the concerned Police Station with the complaint on 20.08.2022 and on the failure of the police concerned to take any action upon his complaint, he then approached the office of the SSP, Jammu who also failed to take any action on the same which prompted him finally to approach the learned Magistrate by invoking the powers vested with the Magistrate under Section 156(3) of the Code who vide order dated 02.09.2022 directed the respondent No.1 to investigate the matter in the light of the Hon'ble Supreme Court judgment in "*Lalita Kumari vs Government of UP & Ors*" and to register the FIR in the matter in case cognizable offence appears to be made out. That finally the respondent No.1 as per the direction of the learned Magistrate registered the impugned case FIR on 15.09.2022.

That Controlling Officer i.e Chief Engineer, PWD(R&B), Jammu pursuant to the complaint dated 25.08.2022 of the petitioner, constituted a committee for enquiring the same in which the petitioner very belatedly filed her reply and the said Committee in its report made to his officer, opined that the complaint of the petitioner is baseless and frivolous. That the case FIR which came to be registered by respondent No.1 on the directions of the learned Magistrate, upon a prior verification, is factually and legally true.

3. I have heard learned counsel for the parties who reiterated their respective stands taken in their pleadings.
4. Learned counsel for the respondent No.1/UT of J&K through Police Station, Trikuta Nagar, Jammu Mr. Pawan Dev Singh, learned Dy AG by way of his response submitted that the FIR bearing No. 240/2022 dated

15.09.2022 registered against the petitioner in the station of the respondent No.1 under Sections 389, 186 IPC does not at all suffer from any illegality or irregularity. He submitted that the complaint made by the respondent No.2 in respect of the incident of 18.08.2022, prima facie discloses the commission of offences punishable under Sections 389, 186 of the IPC and the respondent No.2/complainant was constrained to approach the learned Magistrate by invoking his powers under Section 156(3) of the Code upon being aggrieved from the offices of the SHO and the SSP concerned. He further contended that the learned Magistrate through his order dated 02.09.2022 directed the respondent No.1 to investigate the matter and to register the FIR in case of disclosure of some cognizable offence. He contended that the investigation in the case FIR is almost complete and final report only is needed to be presented before the competent Court of law for which the permission from this Court in view of the interim order dated 18.11.2022 is needed. The learned counsel further contended that the genuineness or otherwise of the complainant's case can only be ascertained before the trial Court in the light of the evidence of both the sides.

5. Learned counsel for the petitioner Mr. Gagan Basotra, Senior Advocate during his arguments contended that the impugned case FIR is outcome of false and frivolous allegations leveled against the petitioner with intent to wreck vengeance. He submitted that in the facts and circumstances of the case no ground was made out for filing a criminal complaint against the petitioner/accused, who was having a matrimonial dispute with her husband, who had allegedly communicated successive Talaks to her and as such, the condition of her mental trauma being the mother of 2/3 children at

that unfortunate time could only be imagined and not described. That may be she would have accused the complainant/respondent No.2 being the cousin of her husband for instigating her husband in his doing so in connection whereof she may either have been called by the complainant himself to his office or she would have herself in a state of anger gone to his office. The learned Senior counsel further contended that it is *inter alia* the case of the complainant/respondent No.2 that the petitioner came to his chamber in the premises of PWD (R&B) Office at Jammu and accused him of abetting her husband in communicating the Talak to her, whereupon she demanded from him ₹5.00 lacs as penalty for her divorce. It is also the case of the complainant that the petitioner/accused entered his office, obstructed him from discharging his official work and also threatened to level criminal allegations against him with a view to extort money from him. The learned Senior counsel contended that the petitioner/accused had approached the complainant/respondent No.2 under the belief that he being the cousin of her husband and a well reputed person being a Senior Law Officer can only prevail upon her husband in settling the matter with her as she was under great, stress and trauma for having been communicated successive Talaks. The learned Senior counsel contended that the Court may after perusing the CD file see as to whether the commission of the offences alleged against the petitioner/accused are supported with any sort of evidence sufficient to prosecute her. The learned senior counsel prayed for quashment of the FIR in the ends of justice as being the outcome of the misuse of power abuse of the process of law.

6. The learned counsel for the respondent No.1, Mr. Pawan Dev Singh, learned Dy. AG submitted that FIR sought to be quashed was registered by the Police Station, Trikuta Nagar, Jammu in compliance to the order dated 02.09.2022 passed by the learned Railway Magistrate, Jammu, upon verification of the case as directed and as such, there is no illegality in the registration of the FIR. The learned UT counsel further contended that the investigation in the case almost complete and the police station concerned is ready to present the final report/challan before the competent Court for which the permission be granted. The learned UT counsel submitted that the petition filed by the petitioner/accused is liable to be dismissed as being without any merit. He further submitted that it is a settled legal position that a Station House Officer is under a legal obligation to register an FIR if the complaint filed before him discloses the commission of a cognizable offence. He contended that the complaint of the respondent No.2 was also backed by an order of the learned Magistrate and as such, the respondent No.1 had no justification in refusing the registration of the FIR.
7. The learned counsel for the respondent No.2, Mr. Deepak Sharma, Advocate submitted that the petitioner/accused on 18.08.2022 at around 2:15 PM came to the office of Respondent No.2 in her uniform while he was engaged in his official work and started shouting abuses and highly derogatory words towards him. That she threatened of involving him in heinous case, in case she does not pay her ₹5.00 lacs. He further contended that the complainant/respondent No.2 approached the concerned Police Station on 20.08.2022 with a complaint whereupon no action was taken by the police concerned. That subsequently he also approached the office of

the Senior Superintendent of Police, Jammu for taking action under law on his complaint wherefrom also he returned disappointed. That then he approached the learned Magistrate invoking his powers under Section 156(3) of the Code, who was convinced to direct the respondent No.1 vide his order dated 02.09.2022 to verify the matter and register the FIR, if the disclosure of cognizable offences is made out. The learned counsel further submitted that the petitioner/accused with a view to pressurize the respondent No.2 to stay away from pursuing his complaint also approached his officer with a complaint on 25.08.2022 whereupon his officer constituted a committee for enquiring the matter in which also the petitioner despite notice submitted her reply at a belated stage. The learned counsel submitted that the committee constituted by the officer of the respondent No.2/complainant opined that the complaint against him i.e. respondent No.2/complainant, filed by the petitioner dated 25.08.2022 is totally baseless.

The learned counsel submitted that the act of the petitioner/accused committed by her on 18.08.2022 at around 2:15 PM in the office of the respondent No.2 amounts to the offences under Sections 389 and 186 IPC rightly leveled and investigated by the respondent No.1 under the impugned FIR. He further contended that the petitioner/accused under the influence of her official position delayed the registration of the FIR in the first instance. The learned counsel also submitted that it is a settled legal position that when a complaint discloses the commission of cognizable offence, FIR is meant to be registered for setting the criminal machinery in motion.

8. I have perused the petition in hand, the replies submitted by the respondents and the copies of the documents placed on the record on both the sides.
9. Keeping in view the aforementioned perusal and the consideration of the rival arguments advanced on both the sides, this Court is of the opinion that registration of the impugned case FIR on the basis of order dated 02.09.2022 of the learned Magistrate suffers from illegality, justifying the quashment of the same.
10. The allegation against the petitioner/accused is that on 18.08.2022 at around 2.15 pm, she came to the office of the respondent No.2/complainant in her uniform at Jammu while he was engaged in his official work, barged into his cabin/office chamber, Jammu and without saying anything started hurling abuses and highly derogatory words on him. She is also alleged to have thrown all official files and papers lying on the table of the respondent No.2/complainant thereby obstructing him in discharge of his official duties. She is also alleged to have threatened the complainant to either pay ₹5.00 lacs to her for causing her divorce or else face serious allegations.
11. In the facts and circumstances of the case, her action as alleged cannot be construed as commission of offences under Sections 389, 186 IPC. The petitioner was having a matrimonial dispute with her husband, who had allegedly communicated successive divorces upon her and it is her case that on the alleged incident day, she approached the respondent No.2/complainant at his office at Jammu with a view to reveal her sufferings to him as being the cousin of her husband as she believed that

the complainant being the cousin of her husband and a senior Law Officer in the office of the Chief Engineer PWD(R&B) was guiding her husband who aided and backed him in pronouncing successive Talaks upon her. It is also the admitted case of the petitioner that she told the respondent No.2/complainant to pay her compensation for facilitating the illegal act.

12. Regarding the alleged incident of 18.08.2022, at around 2.15 pm, the respondent No.2/complainant being a Law Officer is reported to have approached the Police Station, Trikuta Nagar, Jammu in the first instance on 20.08.2022 as admitted by him in his written reply to the petition.

However, the perusal of the Case Diary file nullifies the said statement of the respondent No.2 to the effect that pursuant to the alleged incident of 18.08.2022 occasioned by the petitioner/accused, he approached the concerned Police Station on 20.08.2022 because it is revealed from perusal of the Case Diary that he approached concerned Police Station with a written complaint in respect of the alleged incident of 18.08.2022, 2.30pm, on 31.08.2022. The Case Diary file bears Xerox copy of the said complaint of the respondent No.2 which bears endorsement of the SHO/ Incharge SHO concerned dated 31.08.2022. The said complaint, which bears the signature of respondent No.2/complainant, also bears the said date of 31.08.2022. Thus, there seems to be no reason to disbelieve that the Complaint/First Information Report regarding the incident of 20.08.2022 made by a law knowing officer on 31.08.2022 with a police station being at a distance of less than half an hour's duration, is outcome of an afterthought, concoction and embellishment. It is also needful to mention that the petitioner/accused had earlier made a complaint against the

respondent No.2 which led to the registration of FIR No. 214/2022 dated 17.08.2022 under Sections 498-A, 504, 420, 109 IPC, 3/4 Muslim Women (Protection of Rights on Marriage) Act, 2019.

13. The respondent No.2/complainant upon allegedly being disappointed from the offices of SHO concerned and SSP concerned for showing their alleged inaction towards his complaint regarding the incident dated 18.08.2022, approaches the learned Chief Judicial Magistrate, Jammu with an application in terms of Section 156(3) of the Code and same is assigned for disposal under law to the learned Magistrate. The learned Magistrate received the complaint on 23.08.2022 and before taking an action on the same, issued directions to the SHO Police Station concerned for submitting the status report. The repeated status reports which came to be submitted by the Police Station Bahu Fort to the learned Magistrate including the reports dated 29.08.2022 and 06.09.2022 clearly reveal that the respondent No.2/complainant did not cooperate with concerned Police Station in connection with verification of the matter with further report of the concerned Police Station that the respondent No.2/complainant appears to have approached the Court of learned Magistrate with an application under Section 156(3) of the Code in order to protect himself as the accused (petitioner herein) has already filed FIR bearing No. 214/2022 with the said Police Station, under Sections 498-A, 504, 420, 109 IPC and 3/4 Muslim Women (Protection of Rights on Marriage) Act, 2019.
14. The Investigating Officer of the case as per the perusal of the Case Diary file has recorded the statements of three Daily Wagers of the PWD Department on 28.02.2023. Recording of the statements of the witnesses,

after more than five months from the registration of the FIR speaks volumes about the genuineness of the complainant's case.

15. The petitioner/accused is alleged to have approached the complainant at his office in PWD Complex, Bahu Plaza, Jammu during office hours but Investigating Officer could record the statements of only three daily wagers after a gap of more than five months when the incident was supposed to have been witnessed by the ministerial staff and even some engineers.
16. The order of the learned Magistrate dated 02.09.2022 appears to be suffering from illegality. The learned Magistrate upon receiving the application of the respondent No.2/complainant under Section 156(3) of the Code on 23.08.2022, called the Action Taken Reports from the concerned Police Station, which were submitted to the Court, as the copies thereof are placed on the CD file. Through the said Action Taken Reports, it was as already mentioned, submitted by the police concerned to the learned Magistrate that during enquiry in respect of the complaint earlier filed by the respondent No.2/complainant, it was found that since the petitioner/accused had already filed an FIR bearing No. 214/2022 with the said Police Station against the respondent No.2/ complainant, as such, the later with a view to save himself approached the Police Station. The learned Magistrate, under those circumstances, was supposed to pass a clear and speaking order on the application of the respondent No.2/complainant filed under Section 156(3) of the Code. The direction to the Police Station in the words that the matter be investigated and incase it is found that there is commission of cognizable offences, FIR shall be registered under the relevant provisions of law does not appear to be in

accordance with the law. The learned Magistrate has not applied his own mind and has again thrown the ball in the premises of the concerned Police Station. The impugned order dated 02.09.2022 clearly reveals that the learned Magistrate was not satisfied regarding the commission of the alleged offences by the petitioner/accused.

17. In its celebrated decision passed in *“State of Haryana and Ors vs Ch. Bhajan Lal and Ors”*, AIR 1992 SC 604, the Hon’ble Apex Court considered in detail the scope of the High Courts’ powers under Section 482 Cr.PC and/or Article 226 of the Constitution of India to quash the FIR by referring to several judicial precedents.
18. This Court is conscious of the law laid down by the Hon’ble Apex Court in *“State of Haryana and Ors v. Bhajan Lal and ors”*, AIR 1992 SC604, *“Upkar Singh vs. Ved Prakesh and ors”* (2004) SC 4320 and *“Neharika Infrastructure Pvt Ltd vs. State of Maharashtra and Ors”* 2021 37 CrLJ 2419; SCC Online SC 315, to the effect that Courts should not normally interfere with the criminal proceedings at the initial stage especially where commission of the cognizable offence(s) is apparently discernible, unless there are compelling reasons to do so, for the allegations being absurd or actuated by malice, as in the instant case.
19. It has been held by the Hon’ble Supreme Court of India in *“Imran Pratapgadhi v State of Gujrat”* (2025 INSC 410) at Para 37 of the judgment that *“Section 528 of the BNSS (Section 482 CrPC) empowers the High Courts to quash criminal proceedings even after the filing of a charge-sheet and/or commencement of the trial.”*

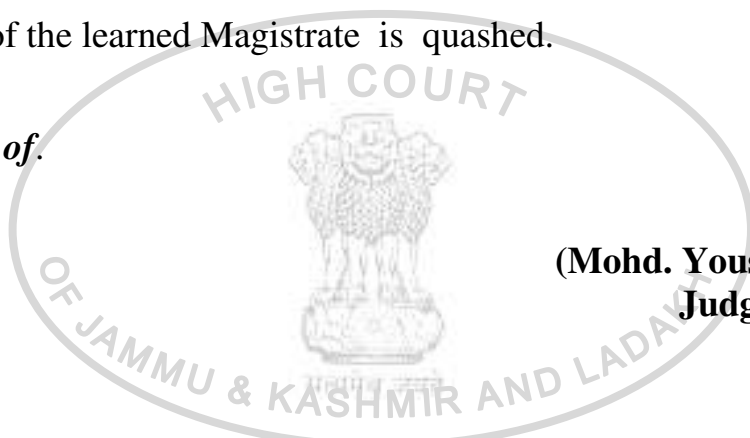
20. This Court, in the facts and circumstances of the case, is of the opinion that the impugned FIR bearing No.0240/2022 dated 15.09.2022 that came to be registered with Police Station, Bahu Fort pursuant to the order dated 02.09.2022 of the learned Special Railway Magistrate (Sub-Judge), Jammu, is based on the complainant that was filed by the Respondent No.2/ alleged complainant, on frivolous grounds, thus actuated by mala fides. The continuation of the investigation and subsequent trial, if any, arising out of same is likely to cause serious prejudice to the petitioner/accused.

21. For the foregoing discussion, the petition is *allowed* and the impugned case FIR No. 240/2022 dated 15.09.2022 registered with Police Station Bahu Fort, Jammu under Sections 389, 186 IPC, pursuant to the order dated

22. 2.09.22 of the learned Magistrate is quashed.

23. *Disposed of.*

Jammu
28.1.2025
Ayaz/Jr. Reg/Secy



(Mohd. Yousuf Wani)
Judge

- i) Whether the order is speaking: Yes/No
- ii) Whether the order is reportable: Yes/No