

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

CRM(M) 30/2025.

**NASEER AHMAD SHEIKH.**

...Petitioner/Appellant(s)

Through: *Mr. Firdous Ahmad Bhat, Advocate.*

**Vs.**

**UNION TERRITORY AND OTHERES.**

...Respondent(s)

Through: *Mr. Jahangir Dar, GA (R-1-3)*  
*None for respondent 4.*

**CORAM:**

**HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE**

**ORDER**

10.10.2025

*(ORAL)*

1. The petitioner in the instant petition has invoked the inherent power of this Court enshrined under Section 528 BNSS for quashing of FIR No. 02 dated 04.01.2025 (For short “ *the impugned FIR*”), registered with Police Station Bandipora for commission of offences under Section 294(2) 308(3), 351(3) read with Section 61(1) and 353(2) of BNSS.
2. The background facts under the cover of which the aforesaid relief has been sought would reveal that the respondent 4 herein somewhere in the year 2022 approached the petitioner herein and requested for a loan of money for her personal and domestic needs whereupon the petitioner herein loaned out the respondent 4 an amount of money with the promise by the respondent 4 that the said loan amount shall be repaid out of her salary every month and that a total of Rs. 11,98,000/- was given by the petitioner to the respondent 4 as loan by cash as well as deposited in her bank account maintained by her in the J&K Bank, branch, Bandipora and that when the petitioner demanded the return of the said money from the respondent 4, she refused to repay the same for one or other reason, compelling the petitioner to serve a

demand notice upon the respondent 4 herein through registered post on 21.08.2024, and upon failure whereof, the petitioner herein instituted a recovery suit against the respondent 4 before the court of 4<sup>th</sup> Additional District Judge, Srinagar, wherein summons came to be issued against the respondent 4 herein and that prior to filing of the said suit when the petitioner earlier demanded the return of the money in question from the respondent 4 herein, a false complaint came to be filed by the respondent 4 against the petitioner herein and his relatives before Police Station, Bandipora which complaint however, came to be compromised and respondent 4 herein agreed to repay the loan amount to the petitioner to which promise the respondent 4 did not adhere to and instead filed a false and frivolous complaint against the petitioner herein on 19<sup>th</sup> July, 2024 before Police Station, Bandipora which resulted into registration of the impugned FIR against the petitioner herein.

3. The petitioner herein has challenged the impugned FIR, *inter-alia*, on the grounds that the FIR is outcome of land dispute *inter-se* the petitioner and respondent 4 herein and in order to settle the said land dispute the respondent 4 herein has got the impugned FIR registered against the petitioner and that the offence alleged to have been committed by the petitioner herein are not made out in the light of facts and circumstances of the case and that the impugned FIR is outcome of abuse of process of law and to wreck vengeance against the petitioner herein and to pressurize the petitioner herein from seeking the recovery of loan amount from the respondent 4 and that the impugned FIR registered against the petitioner herein is contrary to the law governing the field and, as such, in view of various judgments passed by the various High Courts and the Apex Court is liable to be quashed.

4. The official respondents instead of filing response to the petition have filed an application being CrIM No. 377/2025, seeking vacation of interim direction passed in the case on 23<sup>rd</sup> January, 2025, besides the petition is also opposed on the premise that the investigation in the case has been concluded and the alleged offences to have been found established against the petitioner, however, challan could not be filed before the competent court owing to the interim direction passed by this Court where-under the filing of the charge before the competent court has been ordered to await the orders of this Court.
5. It is significant to mention here that the respondent 4 has chosen not to appear and contest the case of the petitioner herein despite due service.

**Heard counsel for the parties and perused the record.**

6. Before proceedings to advert to the case set up by the petitioner in the instant petition, it would be appropriate to refer to the ambit and scope of inherent power of this Court enshrined under Section 528 BNSS.

Law has been settled that the High Court cannot embark upon an FIR/complaint and undertake appreciation of evidence while considering a petition for quashing of an FIR/proceedings under inherent power and that minute consideration of evidence and defense put-forth at the stage of exercise of inherent power is not permissible. This view has been expressed by the Apex Court in case titled as “*Sushil Sethi vs. State of Arunachal Pradesh*”, reported in (2020) 3 SCC 240. A similar view has also been expressed by the Apex Court in case titled as “*Dhruvaram Murlidhar Sonar v. State of Maharashtra*”, (2019) 18 SCC 191, wherein it has also been held by that if the factual foundation of offence has been laid down in a complaint by the complainant/FIR, the High Court should not quash a criminal complaint/proceedings during the investigation stage merely

on premise that one or two ingredients have not been stated in detail in the complaint/FIR. It has also been laid down by the Apex Court in case titled as *M/S Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others* reported in (2020) 10 SSC 118, that when a prayer for quashing of an FIR is made by the alleged accused and the court when it exercise the power under Section 482 Cr.P.C. ( Now Section 528 BNSS), only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not and that the court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the FIR.

7. Keeping in mind the aforesaid position and principles laid down by the Apex Court and reverting back to the case in hand, the fundamental ground urged by the petitioner herein in the instant against the impugned FIR is that the same has originated from a civil dispute *inter-se* the parties qua a plot of land and that otherwise also the offences alleged against the petitioner herein are not made out.
8. Having regard to the said plea of the petitioner, perusal of the CD file summoned by the Court became imperative and upon perusal of the CD file it gets revealed that the investigation in the impugned FIR has been completed on 21.04.2025 and the offences covered in the FIR have been found established against the petitioner herein. A closer examination of the CD file would also reveal that the investigating agency seemingly has conducted investigation in the matter from all angles and has consequently, concluded the offences to have been committed by the petitioner herein.
9. In view of, what has been observed, considered and analyzed herein above, inasmuch as, having regard to the principles of law laid down in the judgments (supra) of the Apex Court, this Court is not inclined to display

indulgence and exercise inherit power at this state for quashing of the impugned FIR.

10. Resultantly, the petition fails and is accordingly, ***dismissed***.
11. Interim direction, if any, subsisting as on date shall also stands vacated.

**(JAVED IQBAL WANI)**  
**JUDGE**

**SRINAGAR**  
10.10.2025  
"Ab.Rashid"

|                                  |         |
|----------------------------------|---------|
| Whether the order speaking:      | Yes/No. |
| Whether approved for reporting:- | Yes/No. |