

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

**CrIM(1091/2025) IN
CRM(M) 454/2025**

Javaid Ahmad Wani

...Petitioner/Appellant(s)

Through: Mr. Sajad Ashraf, Advocate.

Vs.

**UNION TERRITORY OF J AND K
AND ORS**

...Respondent(s)

Through:

CORAM:

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

ORDER

12.08.2025

1. Through the medium of the instant petition filed under the provisions of Section 528 of Bhartiya Nagarik Suraksha Sanhita (hereinafter referred to as the 'BNSS' for short), the petitioner has sought the quashment of the final report/charge-sheet culminating from the investigation in case FIR No. 51/2023 of P/S Qazigund and pending disposal before the Court of Judicial Magistrate (Munisif Qazigund) on the ground that the offences under Sections 447, 324, 427, 506 IPC charged against the petitioner-accused are not made out in the facts and circumstances of the case especially having regard to the fact of the property between the petitioner and the respondent No. 2/complainant being undivided and the pendency of the civil suits between the parties.

2. The case of the petitioner is that he has never indulged in any act which would amount to any offence(s) charged against him. That he is an employee in the Power Development Department and his father has some property dispute with his brother namely Mohd Sabir Wani (uncle of the petitioner) in respect of which, dispute, litigation is going on between the parties before different courts. That since the subject matter of three pending civil suits between the parties is almost same, on the basis of which, the respondent No. 2/complainant filed an application before the SHO Qazigund on 26.03.2023 alleging therein the commission of the offences under Sections 447, 427, 324 and 506 IPC by the petitioner. That the contents of the FIR would reveal that respondent No. 2/complainant has alleged that he i.e., petitioner entered her premises forcibly and assaulted her and her husband. That the FIR fails to meet the legal and evidentiary requirements to substantiate the grave charges leveled against him.

3. I have heard the learned counsel for the petitioner-accused who in reiteration of the grounds already taken in the petition submitted that, in the facts and circumstances of the case, the offences charged against the petitioner-accused do not seem to be made out in terms of the ingredients of the said offences. He submitted that he argued the case before the learned Trial Magistrate on the issue of charge/discharge but the learned Magistrate did not consider his submissions and passed order dated 23.11.2023 framing the charge against the petitioner under

the afore-mentioned sections of law without recording his satisfaction in detail.

4. In the peculiar facts and circumstances of the case, this Court is of the opinion that the matter can be disposed of even at this threshold stage without any notice to the other side by passing of appropriate orders which are not likely to prejudice the rights of any party.

5. Pendency of civil litigation does not, at all, give license to any litigating party to take the law into its own hands and to commit the crime. Not only this, but it is a settled legal position that if any act amounts to both a civil and a criminal wrong, both the remedies can be enforced.

6. However, in the instant case, it is the contention of the petitioner that since the property was still undivided, as such, the petitioner/accused cannot be held liable for trespass and mischief covered under Sections 447 and 427 of the IPC.

7. Since, it is the stand of the petitioner that his counsel argued in detail before the learned Trial Magistrate at the charge stage of the case, therefore, it was expected of the learned trial court to pass a detailed reasoned order addressing the contentions of the counsel for the petitioner. It is a settled law that charge can be amended, altered or modified at any stage of the trial.

8. Therefore, the instant petition is disposed of with the direction to the learned Trial Magistrate to hear the petitioner/accused as well as the prosecution, again on the issue of charge/discharge

and pass a reasoned order on merits while being uninfluenced at all by the passing of this order.

9. *Disposed of.*

**(MOHD YOUSUF WANI)
JUDGE**

SRINAGAR:

12.08.2025

“Hilal”