

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

CRM(M) 413/2022

ALI MOHAMMAD AHANGER AND ORS. ...Appellant(s)/Petitioner(s)

Through: Ms. Zareena Akhter, Advocate

Vs.

PRINCIPAL SECRETARY TO ...Respondent(s)
GOVERNMENT AND ORS.

Through: Mr. Bikramdeep Singh, Dy. AG.

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
21.07.2025

1. Mr. Manzoor Ahmad Mir, IO, is present in the Court along with the CD file.
2. Petitioners through the medium of this petition filed under Section 482 of the Code of Criminal Procedure are seeking quashing of FIR registered with Police Station, Budgam as FIR no. 78/2022 for offences under Section 323, 427 of IPC, on the complaint of Mst. Haleema W/o Ali Mohammad Dar R/o Lalgam, Chadoora, Budgam.
3. The complaint on the basis of which FIR has been registered alleges that complainant's son, Shahid Ahmad Dar, was constructing a trench; during which accused came on spot and started beating him and also inflicted injuries to him. She and her husband came to the rescue of their son but accused also attacked them and inflicted injuries to her as well as tore her clothes, thus, outraged her modesty. The accused also damaged her vehicle.
4. The grounds, on which FIR is sought to be quashed, are that petitioners and complainant are relatives. She is petitioners' sister and aunt of petitioner no.2 and FIR is the family feud and vengeance. They live in the neighboring village of the complainant and petitioners have some

ancestral property in the village of the complainant in addition to the property purchased by the petitioners. Respondent no.4, her husband and their children have evil eye on the property of the petitioners and want to grab the said property by making it difficult for the petitioners to access and use the said property. The complainant and her husband have often tried to restrict petitioners from entering their property by physically attacking them and by engaging the petitioners in frivolous and malicious litigation in order to harass and blackmail them. On many occasions the complainant, her husband and their children have physically assaulted the petitioners and barged and attacked the petitioners at their work places.

5. It is being also stated that petitioners have also filed a civil suit against the complainant and her family in which restraint order has been passed against them. As they have left no scope for complainant to initiate any civil litigation as all her genuine and legal demands are willingly and happily accepted by the petitioners, so out of frustration and desperation, complainant, her husband and her children regularly lodge false and baseless FIRs against them. Local police are playing a partisan role in whole issue and harassing the petitioners on irrelevant and frivolous grounds which compelled the petitioners to approach Senior Superintendent of Police, Budgam, submitting an application requesting therein to take necessary action against the erring policemen and to conduct a proper enquiry in the whole issue. Deputy Superintendent of Police concerned was directed to look into the matter and get the proper investigation conducted.
6. It is also stated by petitioners that role of police has always been suspicious in the present case which further can be established by the fact that the impugned FIR and FIR lodged by the petitioners arise from the same incident, still police has appointed two separate Investigation Officers to investigate two FIRs and not the same Investigation Officer, to hush up the actual story and implicate them. By implicating the petitioner no. 3 and 4 who happen to be the daughters-in-law of the petitioner no.1, the complainant is trying to blackmail the petitioners by

forcing them to come on table and give up their legal demands. Petitioner no. 3 and 4 are pious and religious ladies who are at threshold of making their career and establish their family. The respondents falsely implicating petitioners have not only jeopardized petitioners' career prospects but have stigmatized their social life as well. The only motive of the respondents to implicate petitioners in false and frivolous case is to compel the petitioners to give up their claim on their property and succumb to the demands of the respondent no. 4 and her family.

7. It is also submitted by petitioners that since complainant and her family failed from all sides to meet their illegal demands, they jointly hatched a conspiracy and in order to pressurize the petitioners herein filed a baseless complaint against the petitioners and in consequence of the same, impugned FIR came to be lodged.
8. Heard learned counsel for the parties and perused the record on file.
9. The question that is to be determine in this case is whether FIR in question which has been registered at the instance of complainant for the offences under Section 323, 427 of IPC, as FIR no. 78/2022, could be quashed, while taking into account the submissions made by learned counsel for the petitioners and also judgments relied upon as well as written arguments submitted which is part of the record. Petitioners have also relied upon a Judgment passed in *Shalib @ Shalu @ Salim vs. the State of Uttar Pradesh, (2023) 20 SCC 194*. The learned counsel for the petitioners while relying upon the said judgement has submitted that the registration of the FIR and investigation therein has resulted in abuse of process of law inasmuch as allegations are frivolous, therefore, is required to be quashed. She further submits that allegations made in the complaint on the basis of which FIR has been registered are frivolous and vexatious and the complaint had been instituted with ulterior motive for wreaking vengeance, as such, the FIR in question is required to be quashed.
10. What is to be seen at the time when an FIR is registered on a complaint of complainant is that allegations are to be examined which are made in the FIR/complaint and it is to be seen as to whether such allegations

disclose commission of cognizable offence or not, and if it is found on the perusal of the FIR that cognizable offence is disclosed to have been committed and alleged against the accused what is to be done by the police is to register an FIR and investigate and find out whether such offences are proved or not. So, where a complaint discloses cognizable offences which requires investigation the complaint in such a manner cannot be thrown out at preliminary stage. It is when the allegations made in FIR or complaint, even if taken at their face value and accepting them in their entirety, do not *prima facie* constitute the offence or make out a case against the accused then the FIR is to be quashed. It is when the information on the face of it appears to be concocted and fabricated then the Court is required to take into account the same and, if found that story is concocted and fabricated, quash the FIR. Again where the allegations in FIR or other material, if any, accompanying FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code, the Court can quash FIR. Further, where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused, then in such situation as well the Court can quash the FIR. In addition to that, where the allegation in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by the police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code, the Court can intervene. It is also to be seen when the allegations contained in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach at a just conclusion that there is a sufficient ground for proceeding against the accused, the Court can exercise inherent powers.

11. Having regard to the law laid down by the Supreme Court in ***State of Haryana and others vs. Ch. Bhajan Lal, AIR 1992 SC 604***, and having regard to the complaint on the basis of which FIR has been registered,

the contents of the complaint disclose the commission of cognizable offence and such allegations do not appear to be improbable or vexatious at the time when FIR was registered.

12. The medical record is also on the file which shows that the complainant had suffered injuries of simple nature. The police during the course of investigation have collected the material on record and it was found in their investigation established. Therefore, having regard to the FIR in question as well as the report of investigation and material collected, it cannot be said at this stage that the allegations are vexatious, improbable or it cannot be said that same do not prima facie disclose commission of cognizable offence. Whatever, being stated by counsel for the petitioners is that can be looked into during the course of the trial before the Trial court. They are free to take evidence on record during trial of the case and not at this stage.

13. In view of the above, this petition is **dismissed** along with connected CrIM(s). However, bail order shall remain in force.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
21.07.2025
"Imtiyaz"