

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

Reserved on **28.09.2026**
Pronounced on **07.10.2026**
Uploaded on: **07.10.2026**
Whether the operative part or full
Judgment is pronounced: **Full**

CRM(M) No. 69/2023

Brij Lal and others

.....Appellant(s)/Petitioner(s)

Through: Mr. P. S. Pawar, Adv.

vs

Union Territory of J&K and others

..... Respondent(s)

Through: Mr. Pawan Dev Singh, Dy.AG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioners, through the medium of present petition, have challenged charge sheet emanating out of FIR bearing No. 186/2021 for offences under sections 451, 354, 323, 34 and 511 IPC registered with Police Station, Akhnoor, Jammu.
2. It appears that a complaint under section 156(3) Cr.P.C. came to be filed by respondent No. 4 before the court of Judicial Magistrate 1st Class, Akhnoor. In the said complaint, it was alleged that on 22.06.2021 at about 11:30 during the night, the petitioners trespassed into the residential house of the complainant and started using filthy language against her. When they were asked by respondent No. 4 to go away from the spot and not to use filthy language/abuses as their filthy language is creating nuisance, the accused persons, (the petitioners herein) instead of leaving the spot, started beating

her (complainant) with fists and blows. They also pulled her by her hair and they beat her up with *lathi*. Besides this, the petitioner Nos. 2 and 3 with the intention of outraging her modesty, not only beat her but also tried to tear her clothes, but somehow she managed to save herself. During the attack, she sustained injuries over her chest and other parts of the body, whereafter, she was taken to the hospital at Akhnoor.

3. The learned Magistrate vide order dated 13.07.2021, directed SHO Police Station, Akhnoor to register an FIR on the basis of the aforesaid complaint. Accordingly, FIR bearing No. 186/2021 for offences under sections 451, 354, 323, 34 and 511 IPC came to be registered. After investigation of the case, the Police found that offences under sections 354 and 511 IPC are not established, whereas offences under sections 451, 323, 34, 504 and 201 IPC were found established against the petitioners. Accordingly, the impugned charge sheet was laid before the learned trial Magistrate.
4. The petitioners have challenged the impugned challan by stating that respondent No. 4 is the daughter-in-law of petitioner No. 1, whereas petitioner No. 2, happens to be the son of petitioner No. 1. It has been submitted that petitioner Nos. 3 and 4 are the sons of brother of petitioner No. 1. It has been further submitted that petitioner No. 1 and his wife have disinherited respondent No. 4 and her husband by virtue of registered Deed of Disinheritance executed on 15.07.2019. According to the petitioners, respondent No. 4 and her husband, who were living separately in a rented house at Jammu, are harassing the petitioners after they were disinherited by petitioner No. 1. It has been submitted that petitioner No. 1 has already filed

a civil suit against respondent No. 4 and her husband before the court of learned 1st Civil Subordinate Judge, Jammu and vide order dated 15.07.2021 passed in the said suit, respondent No. 4 and her husband have been restrained from causing any sort of interference into the suit property of petitioner No. 1. According to the petitioners, respondent No. 4 and her husband are of criminal nature and husband of respondent No. 4, in the year 2014, was booked for offences under sections 294 and 341 RPC.

5. It has been contended that respondent No. 4 in order to wreak vengeance upon the petitioners, lodged a false and frivolous complaint against the petitioners before the Police Station, Akhnoor relating to the same incident, which is subject matter of the impugned challan. Upon receipt of the same, the Police filed a complaint under sections 107 and 117 Cr.P.C. before the Executive Magistrate 1st Class, Akhnoor. On this basis, it is being contended that the petitioners are being prosecuted and tried twice for the same offence, which is impermissible in the law as the same is violative of Article 20 of the Constitution.
6. I have heard learned counsel for the parties and I have also perused the record, including the record of the trial court.
7. The main contention that has been urged by the learned counsel for the petitioners for challenging the impugned challan is that for the same incident, which is subject matter of the impugned challan, respondent No. 4 filed an application before the Police, on the basis of which, the Police filed a complaint under sections 107 and 117 Cr.P.C. before the Executive Magistrate 1st Class, Akhnoor. It is being contended that the subject matter

of the said complaint and the subject matter of the impugned challan being one and the same incident, therefore, the petitioners cannot be prosecuted and tried for the same offence twice.

8. The contention of the learned counsel for the petitioners in this regard is misconceived because proceedings under sections 107 and 117 Cr.P.C. are preventive in nature and not punitive in nature. Registration of FIR and filing of the challan in respect of an incident giving rise to a criminal offence is aimed at punishing an offender. Thus, the purpose of the two proceedings is entirely different. While the proceedings under sections 107 and 117 Cr.P.C. are preventing in nature, the proceedings initiated pursuant to registration of an FIR are punitive in nature.
9. Article 20 of the Constitution, protects a person from double jeopardy and provides that a person cannot be prosecuted and punished twice for the same crime/offence in a court of law. In the present case, the impugned challan has been filed with an aim to punish the petitioners for the alleged occurrence with a view to prevent repetition of similar incident. Therefore, it is not a case of double jeopardy covered by Article 20 of the Constitution. The contention of the petitioners in this regard is without any substance. The same is accordingly rejected.
10. The second contention that has been raised by the petitioners for challenging the impugned FIR is that there is past history of enmity between petitioner No. 1 on one side and respondent No. 4 and her husband on the other side. It is being contended that petitioner No. 1 has disinherited his son as well as his daughter-in-law i.e. respondent No. 4 herein, which has prompted her to

wreak vengeance upon the petitioners by filing the impugned challan. The contention advanced by the learned counsel for the petitioners in this regard appear to be attractive but when examined in light of the material on record, the same appears to be misconceived.

11. In the instant case, the allegations levelled by respondent No. 4 against the petitioners have culminated into filing of the challan. After investigation of the case, the Investigating Agency has come to a conclusion that the allegations made in the complaint by respondent No. 4 against the petitioners stand substantiated by the material collected during the investigation of the case. A perusal of the challan would show that the Investigating Agency has recorded the statements of the injured as well as other witnesses acquainted with the facts of the case. All of them have supported the version of the occurrence given in the complaint filed by respondent No. 4. The complainant has also been subjected to medical check up during the course of the investigation and it has been found that she has suffered simple injuries on her chest and abdomen. Thus, the allegations made in the complaint filed by respondent No. 4 against the petitioners to the extent of causing simple injuries to her are substantiated by the medical record. The allegation regarding trespass committed by the petitioners by entering into the residential house of respondent No. 4, is substantiated by the statements of the witnesses examined by the Investigating Officer. In the face of this material, merely because the incident may be a result of previous enmity between the parties, it cannot be presumed that the said incident has not taken place.

12. For the foregoing reasons, it is not a fit case, where this Court should exercise its inherent power to quash the impugned proceedings. The petition lacks merit and the same is dismissed accordingly.

(SANJAY DHAR)
JUDGE

Jammu
07.10.2026
Rakesh PS

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

