

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

CRM(M) No. 48/2023

MOHD. BASHIR AND ORS.

...Petitioner/Appellant(s)

Through: Ms. Rushda Choudhary, Advocate vice
Mr. Arshad Majid Malik, Advocate

Vs.

UT OF J&K AND ORS.

...Respondent(s)

Through: Mr. Bhanu Jasrotia, GA for R-1 and 2
Mr. Abrar Ahmed Khan, Advocate for R-3 and 4

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

30.01.2026

1. Respondents No. 3 and 4 have filed their reply to the present petition contending that petitioner No. 1 is a habitual offender against whom multiple FIRs have been registered, including FIR No. 0203/2019, FIR No. 0012/2022 and FIR No. 0145/2020. It is submitted that despite the commission of serious offences, even preventive proceedings under Section 107 Cr.P.C. were initiated against petitioner No. 1; however, the same failed to deter him from continuing his unlawful activities. According to the respondents, on 16.12.2022, petitioner No. 1 crossed all limits of criminality and brutally attacked the father of respondent No. 3, namely Alaf Din, causing him serious injuries, as a result of which he remained admitted in GMC, Rajouri from 16.12.2022 to 28.12.2022. This incident led to the registration of FIR No. 0163/2022 under Sections 307, 341, 323 and 147 IPC, which is the subject matter of challenge in the present petition.

2. It is further submitted that FIR No. 0163/2022 is presently under investigation and that the petitioners have deliberately concealed material facts relating to the registration of multiple FIRs against them. It is also alleged that respondent No. 4, who is a prosecuting officer and is conducting

criminal cases against the petitioners—cases which have culminated in the filing of charge-sheets and are pending before the competent court at Rajouri—has been falsely implicated with *mala fide* intent. The respondents assert that the petitioners, being habitual litigants, orchestrated a false counter FIR bearing No. 0164/2022 under Sections 452, 323, 147, 382 and 506 IPC with the sole object of sabotaging the proceedings in FIR No. 0163/2022 and pressurising the respondents into withdrawing the said case.

3. Per contra, learned counsel for the petitioners vehemently argued that there exists long-standing civil and criminal litigation between the parties and that the impugned FIR has been lodged with an ulterior motive to coerce the petitioners into an unwanted settlement. It was contended that respondent No. 3, acting under the influence of respondent No. 4, who is posted as a prosecuting officer at Rajouri, misused the criminal machinery to lodge a false case against the petitioners.

4. The petitioners claim ownership over land measuring 18 marlas falling under Khasra No. 345, Tehsil Thanamandi, District Rajouri, which, according to them, is being illegally encroached upon by respondent No. 3 and his relatives. A civil suit concerning the said land has been pending between the parties since 2018, followed by multiple litigations thereafter. In this backdrop, it is argued that the impugned FIR is nothing but an abuse of the process of law. During the course of arguments, learned counsel for the petitioners fairly conceded that FIR No. 0164/2022, lodged at the instance of petitioner No. 1 and challenged by respondent No. 3 through CRM(M) No. 218/2023, has already been adjudicated by this Court. The said petition was disposed of on the finding that although FIR No. 0164/2022 appeared to be a counterblast, petitioner Mohd. Bashir had also sustained injuries duly supported by medical evidence, and consequently, the FIR was not quashed.

5. Heard learned counsel for the parties at length. There is no dispute with regard to the settled legal position that the inherent jurisdiction of this Court under Section 482 Cr.P.C. can be exercised only in exceptional circumstances, namely, where the FIR, even if taken at face value, does not disclose the commission of any offence; where the allegations are so absurd

or inherently improbable that no prudent person could arrive at a conclusion that there is sufficient ground for proceeding; or where the proceedings are manifestly attended with *mala fides* or instituted with ulterior motives for wreaking vengeance. Reference in this regard may be made to the judgment reported in **AIR 1992 SC 604**, which continues to govern the field of quashment proceedings.

6. During the hearing, the petitioners could not dispute the factual position that multiple FIRs have been registered against them, including FIR No. 0203/2019, which has culminated in the filing of a charge-sheet before the Court of JMIC, Thanamandi, Rajouri; FIR No. 0012/2022, which has resulted in the filing of a charge-sheet for offences under Sections 435 and 425 IPC; and FIR No. 0145/2020 under Sections 452, 336, 323, 504 and 506 IPC, which is still under investigation. It is also borne out from the record that proceedings under Section 107(2) Cr.P.C. were initiated against petitioner No. 1 on 20.08.2022.

7. As regards the incident dated 16.12.2022, it is evident that the same resulted in the registration of cross FIRs. The initial information was furnished by respondent No. 3, leading to the registration of FIR No. 0163/2022 at 4:05 PM under Sections 307, 341, 323 and 147 IPC. On the same day, petitioner No. 1 also lodged FIR No. 0164/2022 at 4:40 PM under Sections 452, 323, 147, 382 and 506 IPC.

8. In so far as FIR No. 0164/2022 is concerned, CRM(M) No. 218/2023 was disposed of by this Court vide order dated 28.12.2023, holding that no case for quashing was made out qua respondent No. 3 and two others, though proceedings against three accused were quashed. A perusal of FIR No. 0163/2022 reveals specific allegations that the petitioners, after forming an unlawful assembly in furtherance of a common object and under the leadership of petitioner No. 1, attacked the father of respondent No. 3 with an intention to kill him. It is alleged that the accused were armed with an iron rod and an axe, inflicted grievous injuries upon the victim, and continued to assault him even after he fell to the ground. When respondent No. 3 attempted to intervene, he too was allegedly assaulted.

9. The existence of cross FIRs arising out of the same incident has already led this Court, in CRM(M) No. 218/2023, to observe that FIR No. 0163/2022 cannot be termed a counterblast, thereby indicating a free fight between the parties. The determination as to who was the aggressor is a matter to be ascertained during investigation.

10. Considering that multiple FIRs have been registered against petitioner No. 1, his wife and son, it cannot be prima facie held that they have been falsely implicated. The contention of the official respondents that the matter is still under investigation carries weight, and any false implication, if at all, would surface during the course of investigation. The mere existence of cross FIRs does not, by itself, render the FIR lodged by respondent No. 3 false.

11. Upon thoughtful consideration of the submissions made at the Bar and the material placed on record, it is evident that while multiple litigations are pending between the parties, the incident dated 16.12.2022 did give rise to two FIRs, with the report of respondent No. 3 being prior in point of time and disclosing the commission of cognizable offences. The petitioners have failed to establish that the impugned FIR is false at its inception.

12. On the contrary, the respondents have placed sufficient material on record to demonstrate that the petitioners have repeatedly indulged in unlawful activities, resulting in multiple FIRs, three of which have culminated in the filing of charge-sheets. In this backdrop, the allegation that the petitioners formed an unlawful assembly and launched a murderous assault on the father of respondent No. 3 cannot be brushed aside as imaginary or frivolous. Since investigation in both FIRs is underway, only a full-fledged investigation will reveal the true genesis of the incident and determine the role and culpability of the parties.

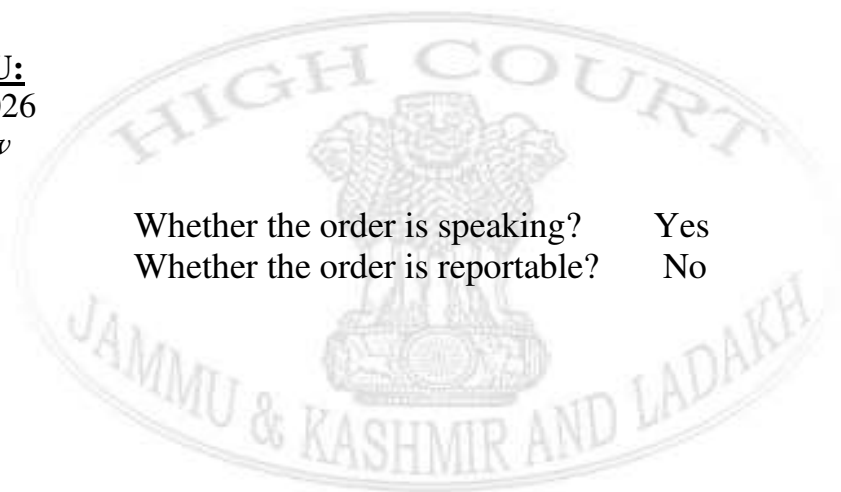
13. This Court, therefore, finds no frivolity in the case registered against the petitioners. As the matter is still under investigation, no interference is warranted at this stage. The petitioners shall await the outcome of the investigation and, in the event of filing of a charge-sheet, shall be at liberty to raise all permissible pleas before the Trial Court.

14. Consequently, the petition is found to be devoid of merit and is *dismissed*. The investigation in FIR No. 0163/2022 shall be taken to its logical conclusion. The SSP concerned is directed to ensure that FIR Nos. 0163 and 0164 of 2022 of the concerned Police Station are investigated by the same Investigating Officer so as to properly ascertain the genesis of the incident dated 16.12.2022 and take appropriate action in accordance with law.

15. Interim direction(s), if any, shall stand vacated.

(SANJAY PARIHAR)
JUDGE

JAMMU:
30.01.2026
Akshil Dev



Whether the order is speaking?	Yes
Whether the order is reportable?	No