

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

CRMC No.337/2017

Reserved on: 24.07.2026

Pronounced on: 13.08.2026

Uploaded on: 13.08.2026

Operative part or full judgment: Full

Bodh Raj,
S/O Tara Chand
R/O Upper Thathar
Jammu

.....Petitioners

Through: Mr. Jattan Singh Gill, Adv.

Vs.

1. State of J&K through
SHO Police Station
Kana Chak, Jammu.
2. Kuldeep Kumari,
W/O Devi Dayal
R/O Thathar, Jammu,
At present, Lalyal,
Teshil Marh, District Jammu

..... Respondents

Through: Mr. Atithi Dev Singh, AC vice
Mr. P. D. Singh, Dy. AG for R-1.
Mr. Rohit Sharma, Adv. for R-2.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. Petitioner, invoking the inherent jurisdiction of this court under Section 561-A of J&K CrPC (akin to Sections 482 of CrPC, now 528 of BNSS) through the medium of this petition, seeks quashing of complaint dated 09.03.2017, and all proceedings arising out of it, pending before the court of learned City Magistrate Jammu, filed against the petitioner, for commission of offences of rape, criminal trespass and wrongful confinement, at the instance of respondent No.2 herein,

alleging that same is misuse of the process of law, on false implication of the petitioner.

2. Brief facts, as pleaded by the petitioner in his petition, are that respondent no.2 got married with uncle of petitioner in the year 1992; that after their marriage, they shifted to Village Lalyal, Marh, District Jammu; that uncle of the petitioner sold his whole share of property measuring 5 kanals falling under Khasra No.275 situated at Upper Thathar, Jammu to one Sukhdev Singh and an affidavit has been sworn by him in this regard; that he was forced to leave Village Lalyal by the respondent no.2 and was left to fend for himself; that grandmother of the petitioner provided shelter to the uncle of the petitioner and he continued to live there till his death in the year 2016; that during his period of illness upto death, petitioner took care of his uncle and the expenses of his medical treatment; that all of sudden, after 14 days of the death of his uncle, respondent No.2 came into the scene and started fighting with the petitioner over the property to which she has no claim; that respondent no.2/complainant being SPO at P/S Kana Chak, Jammu continuously harassed the petitioner and demanded 10 marlas of land from the petitioner and extended threat to the petitioner that in case he does not yield to her demand, then she would implicate her in a false and frivolous case; that feeling enough with the incessant harassment meted out to him by the respondent no.2/complainant, the petitioner filed written complaint on 18.02.2017 to Superintendent of Police, Rural, Jammu against the respondent No.2.

3. It has been alleged that on coming to know about the aforesaid complaint lodged by the petitioner against her, respondent No.2, on being infuriated, moved an application to SSP, Jammu for lodging an FIR against the petitioner, for

commission of offences punishable under Sections 382,452,323 and 34 RPC received at Police Station Domana on 04.03.2017, whereupon a case was registered vide FIR No. 85/2017 U/Ss 382/451/323/34 RPC.

4. During pendency of the investigation of the afore-stated case, respondent No.2, she filed a complaint u/s 156(3) CrPC before the court of learned Chief Judicial Magistrate, Jammu for registration of FIR against the petitioner, allegedly for commission of rape, criminal trespass and wrongful confinement on 05.03.2017; that the said complaint u/s 156(3) CrPC was transferred to the court of learned City Magistrate Jammu, who vide order dated 09.03.2017 directed the SHO concerned for taking necessary action warranted under law.

5. The impugned complaint has been assailed on the following grounds:

- (i) That the allegations made in the complaint do not 'prima facie' constitute any offence against the petitioner;
- (ii) That the alleged offences do not connect the involvement of the petitioner at any stage in commission of the same;
- (iii) That the alleged occurrence took place on 05.03.2017 at about 7:30 PM at the house of the complainant, however, the fact is that the complainant was on duty that day, till 8 PM, which shows that a false case is foisted upon the petitioner;
- (iv) That in order to escape from the proceedings pursuant to complaint submitted by the petitioner to SP Rural, the respondent has moved an application under Section 156(3) CrPC before the competent court of law for registration of an FIR against the petitioner;

(v) That the complaint against the petitioner is for putting pressure on the petitioner so that he cedes his share in favour of the complainant.

(vi) That the impugned complaint is a sheer abuse of the process of law.

6. Pursuant to notices, respondent No.1, despite availing numerous opportunities, has not filed objections. Respondent No.2, however, filed objections, which are on record.

7. In the objections filed on behalf of respondent No.2-complainant, dismissal of this petition is sought on the ground that the petitioner is not entitled to invoke the jurisdiction of this court, under Section 561-A CrPC owing to the fact that he has committed a grave and heinous offence by raping the complainant, criminal trespass and wrongful confinement, which are cognizable and non-bailable offences; that the petitioner is a notorious person having political affiliation; that the petitioner has filed false and frivolous application before SP Rural, Jammu so that he can exert pressure for share from her property; that the respondent No.1 is hand in glove with the petitioner; that the scope of interference by this Court in investigation is very narrow therefore, the powers under Section 482 CrPC are to be exercised very sparingly. Finally, it is stated in the objections that the instant petition be dismissed.

8. Mr. Jattan Singh Gill, learned counsel appearing for the petitioner argued that the impugned complaint registered against the petitioner is nothing but an abuse of process of law; that in the impugned complaint, complainant alleged that rape was committed upon her at 7:30 PM on 05.03.2017, however, statement of Mukarram Abdul Hussain, Munshi, Police Station Kana Chak revealed that

complainant on that day was on duty till 8:00 PM; that the occurrence was alleged to have taken place in her village on 05.03.2017, whereas she lodged FIR No.85/2017 on 06.03.2017, but she did not disclose about any occurrence of this nature, in her complaint made on 06.03.2017; that there is a long standing dispute with regard to property of Devi Dayal, the deceased husband of the complainant; that the respondent, in her objections, have pleaded that petitioner committed the offence in question on 05.03.2017 with a view to seek revenge in relation to the complaint lodged by the respondent; that in the complaint dated 09.03.2017, the complainant alleged that during the course of the alleged occurrence dated 05.03.2017, the petitioner threatened her to withdraw FIR No.85/2017, which as per record, is registered on 06.03.2017, hence a flaw in the averments.

9. He would further argue that criminal process cannot be permitted to be employed as a means of exerting pressure or securing an advantage in civil disputes of property; that the allegations in the impugned complaint do not disclose the alleged offences. Finally, it is prayed that the instant petition be allowed and impugned complaint dated 09.03.2017 be quashed along with all consequential proceedings arising therefrom. In support of his contentions, he has referred and relied upon judgments of the Supreme Court in Criminal Appeal No.2338/2023 titled ‘Mohmood Ali V. State of U.P. & Ors’ decided on 08.08.2023 and ‘State of Haryana & Ors V. Ch. Bhajan Lal & Ors’ reported as **1992 (1) SCC (Cri) 426**.

10. Mr. P D Singh, learned Dy. AG, appearing for respondent No.1, argued that the instant petition deserves dismissal on the ground that the petitioner has approached this court with unclean hands and has suppressed material facts form

this court; that the complaint itself discloses commission of cognizable offences, as such, trial court has rightly directed the SHO concerned to investigate the matter in view of heinous offences alleged in the complaint. Finally, it has been prayed the writ petition being devoid of any merit and substance, deserves to be dismissed.

11. Mr. Rohit Sharma, learned counsel appearing for the respondent No.2/complainant argued that the petitioner has raised disputed questions of facts which are serious triable allegations, which, this court cannot adjudicate upon under its extraordinary jurisdiction. He further submits that as per Supreme Court judgments, power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. He further submits that the present case does not fall within any of the exceptional categories laid down in Ch. Bhajan Lal's case warranting interference; that the complaint discloses commission of cognizable offences; that the delay in registration of FIR is due to the inaction on the part of the police officials rather than any omission on the part of the victim.

12. He would further argue that the merits of the contentions raised by the petitioner cannot be examined in proceedings under Section 561-A CrPC, so as to appreciate evidence, determination of credibility of witnesses and adjudication of disputed facts are matters exclusively within the domain of trial court; that the investigating agency in this case has acted in a manner, partial to the petitioner, in view of failure to register FIR against the petitioner promptly despite disclosure of cognizable offences, failure to seize relevant material evidence and arrangement for immediate medical examination; that the petitioner has not approached the

court with clean hands. Lastly, it is prayed that the petition be dismissed. In support of his contentions, learned counsel has also placed reliance on judgment of the Supreme Court in cases ‘State of Haryana & Ors V. Ch. Bhajan Lal & Ors’ [1992 AIR (SC) 604] and ‘The State of Punjab V. Gurmit Singh & Ors’ [(1996) 2 SCC 384].

13. Heard learned counsel for the parties, considered their submissions and perused the file.

14. It is an admitted case that respondent No.2 is the wife of one-Devi Dayal, who happened to be the uncle of the petitioner-Bodh Raj and that after the death of complainant-Kuldeep Kumari’s husband- Devi Dayal, there is a dispute between the family of the petitioner and the complainant, with regard to inheritance of the property left by the said Devi Dayal. Both the parties had approached police against each other for taking action in the matter. The petitioner Bodh Raj had complained that since his uncle late Devi Dayal, during his lifetime and during subsistence of his marriage with respondent no.2/complainant Kudeep Kumari, had sold whole of his share in the estate, and shifted to the place of the complainant at Village Lalyal, Tehsil Marh, District Jammu, whereas the complainant Kuldeep Kumari asserted that she was entitled to the share left by her husband- late Devi Dayal from his ancestral property in Village Upper Thather, Jammu.

15. In view of the dispute over the property, both the parties had approached the police for taking action against each other. The complainant/respondent No.2 firstly lodged FIR No. 85/2017 for the commission of offences punishable under Sections 452, 382, 323 and 34 RPC at P/S Domana on 06.03.2017, and secondly

moved impugned complaint alleging the commission of offences of criminal trespass, wrongful confinement and rape against the petitioner on 09.03.2017. The petitioner also moved the police against alleged harassment caused to him and his family by the respondent no.2/complainant, who happens to be a Special Police Officer (SPO). The petitioner, in his petition, has raised disputed questions of fact with regard to him not being at the place of alleged occurrence, in view of locations of his cell phone and also due to the enmity between the parties.

16. The contention of the petitioner that the allegations against him made in the impugned complaint were improbably for the reason that in the FIR No.85/2017 on 06.03.2017, why the complainant had not made any mention with regard to the allegations in the complaint moved on 09.03.2017, with regard to alleged occurrence on 05.03.2017, is palpably wrong and incorrect as the FIR lodged on 06.03.2017 was based on her complaint moved on 03.03.2017, earlier in point time as to the occurrence on 05.03.2017, which is subject matter of this petition.

17. There is no doubt that this court can exercise inherent jurisdiction to quash the complaint or any FIR, in case, it is found that the same was misuse of the process of the court. In the considered opinion of this court, it will be in the interest of justice that learned Magistrate and the police are permitted to proceed in the matter to unearth the truth involved in the matter. Simply that the parties have a dispute over the shares of late Devi Dayal, husband of the respondent and uncle of the petitioner, in the landed estate, in the considered opinion of this court, is not a valid ground to quash the proceedings initiated by the complainant

against the petitioner alleging commission of serious offences against her person.

18. Having regard to the above discussion and foregoing reasons, the petition is found to be without any merit and substance and is, accordingly, **dismissed**, alongwith connected application(s).

19. Interim direction, if any, shall stand vacated.

(M.A Chowdhary)
Judge

Jammu:
13.08.2026
Raj kumar

Whether the order is speaking?
Whether the order is reportable?

Yes
Yes

