

Serial No. 95

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

CRM(M) No.185/2020

Reserved on: 06.07.2026
Pronounced on: 10.07.2026
Uploaded on: 10.07.2026
*Whether the part or full
judgment is pronounced: Full*

1. **Rajeshwar Singh,**
S/O Col. Puran Singh Sumbria
R/O Sector-3 Extension
6/7 Trikuta Nagar, Jammu.
2. **Aditya Singh**
S/O Rajeshwar Singh,
R/O Sector-3 Extension
6/7 Trikute Nagar, Jammu.
3. **Bhavnesb Sumbria,**
W/O Rajeshwar Singh
R/O Sector-3 Extension
6/7 Trikuta Nagar, Jammu.
4. **Taruna Sumbria**
D/O Rajeshwar Singh,
R/O Sector-3 Extension
6/7 Trikuta Nagar, Jammu.

Through: Mr. K. Nirmal Kotwal, Senior Adv. with
Mr. Arshdeep Singh, Advocate.

.....Petitioners

Vs.

1. Union Territory of Jammu & Kashmir
Through Home Department, J&K
Civil Secretariat, Jammu.
2. Station House Officer,
Police Station, Bahu Fort,
Jammu.
3. Ravinder Sharma,
Naib Tehsildar, Bahu,
Jammu.

..... Respondents

Through: Mr. P.D Singh, Dy. AG

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

JUDGMENT

1. This petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioners seeking quashment of criminal proceedings in FIR

No.0157/2020 dated 28.06.2020 registered at Police Station Bahu Fort, Jammu, for commission of offences punishable under Sections 323/341 and 186 IPC.

2. Brief facts, shorn of unnecessary details, as pleaded by the petitioners are that on 28.06.2020, the petitioners noticing some activity in front of their gate in wee hours seeing that a JCB was carrying out laying of road on the land of the petitioners comprised in Khasra No.35 min, which has not been acquired by any government agency; that petitioners came out of their house and saw the work ongoing, objected the same and asked to stop the work and to call the contractor who is executing the work; that one Mohd. Yunis turned up and said that the work was executed by AEE/JE PWD, Jammu; that petitioner no.1 went to file a complaint against the said department but his complaint was not entertained and he was turned away; that, to the utter dismay of the petitioners, at around 6 PM on 28.06.2020, police in large numbers entered the house of the petitioners, humiliated the petitioners, bundled them in police van in a disrespectful manner, made them sit in the police station indefinitely without informing the alleged offence for which they were brought to police station; that the petitioners got certified copy of FIR impugned from the court of Chief Judicial Magistrate, Jammu.

3. Petitioners have assailed the impugned FIR on the following grounds:

- (i) that the impugned FIR is misuse of the process of law and authority of police, as such impugned FIR is legally unsustainable;
- (ii) That the complainant has no locus to file the present complaint/FIR as he is not the aggrieved person;

- (iii) That the complaint has been filed against the petitioners in order to grab the land of the petitioners without adopting due process of law;
- (iv) That there was malafide intention on the part of PWD to first lay the road and then falsely implicate the petitioners in a false and frivolous case; and
- (v) That the impugned FIR is a counter blast to the land compensation case of the petitioners.

4. Pursuant to notices, a status report/reply has been filed by respondent No.2-SHO concerned, seeking dismissal of this petition on the ground that this Court cannot appreciate evidence/statements which have been recorded by the Investigating Agency in view of the settled law by Hon'ble the Supreme Court and as the scope of interference by this Court in investigation is very narrow therefore, the powers under 482 CrPC are to be exercised very sparingly. It is further submitted that on receipt of complaint filed by respondent No.3, FIR No.0157/2020 dated 28.06.2020 was registered against the petitioners; the investigating officer visited the spot, prepared site plan, recorded the statements of witnesses U/S 161 CrPC and it was established that the petitioners wrongfully restrained the way/work of PWD officials and accordingly, the offences U/Ss 341, 323, 186 IPC were proved against the petitioners and challan was finalized, however, the same could not be laid before the competent court of law in view of this court order dated 13.07.2020.

5. Learned counsel for the petitioners argued that the complainant on whose complaint, the impugned FIR has been lodged has no locus standi to file the

complaint as he is not aggrieved person; that the Public Works Department wanted to forcibly construct the road through the land of the petitioners without adopting due process of law; that the time of executing the work in wee hours clearly shows that there was malafide intention on the part of the PWD to first lay the road and then involving the petitioners in a false and frivolous FIR; that the impugned FIR is the counter blast to the complaint to be filed by the petitioners about the incident that occurred in wee hours on 28.06.2020 at 1.30 AM; that bare perusal of the impugned FIR would show that no offence is made out as neither the PWD or the JDA has ever acquired the right to ownership in respect of the land through which the road is being constructed, that the impugned FIR is a sheer abuse of process of law and it is finally prayed that the impugned FIR be quashed.

6. Learned counsel for the respondents submitted that the petitioners with common and criminal intention obstructed in the lawful discharge of the duties of PWD officials by stopping traffic movement and construction of road work; that during investigation, on the basis of statements of the witnesses, it is established that the petitioners have wrongfully restrained the way/work of PWD officials and the offences mentioned in the impugned FIR are proved against them.

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

8. Perusal of the petition would show that the father of petitioner No.1 filed an appeal being LPA No.51/1993 before this court, seeking implementation of Negotiation Committee decision for compensation of land used for construction

of Circular Road in Trikuta Nagar Housing Colony, which was disposed of vide judgment and order dated 31.05.1993 by directing respondents 1 to 4 therein to require respondent No.5 to finalize and conclude its proceedings within three months and make recommendations/report as the committee may deem appropriate in accordance with law; that Collector Land Acquisition, Jammu Development Authority issued notification under Sub-Section (1) of Section 4 of the Land Acquisition Act vide order dated 30.05.2017; that notification under Section 5 and 5A of the Act was issued by Collector Land Acquisition on 17.06.2017; that on 27.02.2018, Collector Land Acquisition, JDA, Jammu vide requested District collector, Deputy Commissioner, Jammu to issue declaration u/s 6 and 7 of the Act; that petitioner No.1 file number of representations, latest being on 18.02.2020 to the Principal Secretary, Housing and Urban Development Department, Jammu but no decision was taken over it, to pay compensation to the petitioner.

9. It appears from the facts and circumstances of the case, as pleaded by the petitioners and replied by the respondents, that the govt. officials from Public Works Department were executing the work of a circular road in Trikuta Nagar Colony, near the office of Bharitya Janata Party; that the work was being carried out by the men and machinery of the contractor namely Mohd. Yunis; that petitioners, who claimed to be the owners of the land where the work was being carried out, and that they had not been compensated for their land tried to be used to construct a road in the wee hours on the date of alleged occurrence on 28.06.2020, resisted the same by lodging a protest and preventing the men and machinery deployed thereon, for carrying out the construction activity. It appears that offended of this resistance shown by the petitioners, who claimed to

be owners of the land in question where the construction work was being done, brought the same to the notice of the complainant-Naib Tehsildar, Jammu who moved a complaint against the petitioners, whereupon the impugned FIR was registered at Police Station Bahu Fort, Jammu. In view of offences punishable U/Ss 323/341 and 186 IPC invoked in the FIR, it appears that there was a slight resistance by the petitioners for the protection of their proprietary land from being trampled without following due course of law.

10. The respondents, in their reply, are conspicuously silent from disclosing as to whether the land, where the construction activity was being carried out, had been acquired or the road was constructed without proper acquisition of the land. In absence of such a pleading, this court assumes that the construction activity was being carried out without acquisition of the land of the petitioners for construction of the road. In such a situation, holding land being a constitutional and human right, the petitioners had every right to protest and restrain any such interference in their proprietary land, such a response by the official respondents should not have been given a criminal colour as it cannot be said that there was any criminal intention on their part to commit any offence against the persons conducting the construction activity.

11. The land of the petitioners, having been used for the construction of the road without proper acquisition and, on their protest, registration of a criminal case to implicate them, in the considered opinion of this court is an abuse of the process of law, which is not sustainable.

12. As a result, the petition is allowed and impugned FIR No.0157/2020 dated 28.06.2020 registered at Police Station Bahu Fort, Jammu, for commission of

offences punishable under Sections 323/341 and 186 IPC, is hereby ordered to be quashed, with all consequential proceedings.

13. Petition is, accordingly disposed of, as **allowed**.

(M.A Chowdhary)
Judge

Jammu:
10.07.2026
Raj Kumar

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

Yes/No
Yes/No

