

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

CRMC No. 205/2016
IA No. 1/2016
c/w
CRM(M) No. 1028/2022
CrIM No. 2148/2022

Suraj Dev Singh Appellant(s)/Petitioner(s)

Through: Mr. A. P. Singh, Advocate
vs

State of J&K Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
10.04.2026

CRMC No. 205/2016

1. This petition has been filed by the petitioner for quashing the order dated 05.04.2016 passed by learned Special Excise Magistrate, Jammu (for short "the Trial Court") in case titled, '*State vs. Suraj Dev Singh*', by virtue of which, the petitioner has been charged for commission of offence under Section 109 RPC.
2. The contention of learned counsel for the petitioner is that the petitioner was never present at the time when the incident took place and without there being any evidence on record, the petitioner has been charged under Section 109 RPC. Learned counsel for the petitioner further submits that in fact the petitioner and the complainant i.e. Mamta Sharma have already entered into a compromise in the year 2018, as such, the order impugned deserves to be quashed.

3. *Per contra*, Mr. P. D. Singh, learned Dy. AG submits that *plea of alibi* is in fact a defence available to the petitioner, which the petitioner can well raise during the trial before the learned trial court and even if the complainant and the petitioner have entered into a compromise, the statement of the complainant can be recorded before the learned trial court and in case the complainant makes statement with regard to compromise effected between the petitioner and the complainant, appropriate order can be passed by the learned trial court.
4. Heard learned counsel for the parties and perused the record.
5. A perusal of the statement of the complainant, Mamta Sharma reveals that on 08.11.2013, at about 02:00 PM, three accused persons, namely, Sheetal Sharma, Pardeep Sharma and Koushan Kumar, entered into her house when her husband was not at home. They threatened her and asked her to settle the dispute with Suraj Dev Singh, otherwise it would not be good for them. Learned Dy. AG has submitted that the three accused mentioned above acted at the behest of Suraj Dev Singh.
6. Learned trial court while passing the order impugned, has taken note of the statement made by the complainant, namely, Mamta Sharma and also the other witnesses, namely, PW Bimla Devi, Manohar Lal and Padmjeet Sharma. It is a settled law that while considering the issue of charge/discharge, the Trial court cannot evaluate the evidence, though it can sift and weigh the evidence for the limited purpose of finding out, whether there is material on record to proceed against the accused or not. (See '**Sajjan Kumar vs. Central Bureau of Investigation** [2010] 9 SCC 368).

7. The contention of the learned counsel for the petitioner that the petitioner has entered into a compromise can be considered by the learned trial court after the complainant appears before the learned trial court and makes any such statement.
8. In view of the above, this Court does not find any illegality in the order impugned.
9. This petition is found to be misconceived. The same is **dismissed**.

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10. Investigating Officer to get the statement of the complainant recorded with regard to the compromise deed dated 24.05.2018, executed between Suraj Dev Singh, Bimla Devi, Mamta Sharma and Manohar Lal.
11. List on **15.05.2026**.
12. Meanwhile, interim direction, if any, shall continue.

(RAJNESH OSWAL)
JUDGE

Jammu
10.04.2026
Neha-II