

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

Case No: CRM(M) No. 768/2026

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Imtiaz Ahmed Khan and others

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

Through: Mr. A.A.Khan, Advocate

Vs.

U.T.of J&K and others

.... Respondent(s)

Through: None

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

ORDER
31.08.2026

ORAL:

1. The petitioners, through the medium of the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, have challenged FIR No. 77/2026 registered for the offences punishable under Sections 109, 126(2) and 3(5) of the Bharatiya Nyaya Sanhita (BNS), at Police Station Gursai, Poonch.
2. As per the contents of the impugned FIR, on 15.07.2026, when the complainant-respondent No. 4 was returning to his home from Mendhar on his motorcycle at about 8:30 a.m., and when he reached Harni Chowk, the petitioners, who were having previous enmity with him on account of a land dispute, intercepted his motorcycle and

petitioner No. 2, who was armed with a khokhri, with an intention to kill the complainant, gave a blow with the khokhri to him, as a result of which the complainant received grievous injuries. The other petitioners gave a beating to the complainant with kicks and fists and also threatened to kill him. Due to the intervention of the nearby people who had gathered there, the complainant was saved and was shifted to the hospital for treatment.

3. The petitioners have challenged the impugned FIR on the grounds that petitioner No. 1 and the father of respondent No. 4 are real brothers and that there is a land dispute going on between them. It has been submitted that petitioner No. 1 had filed an application before the Sub-Divisional Magistrate, Mendhar, in the month of June, 2025, and the Sub-Divisional Magistrate, Mendhar, directed the official authorities to stop construction on the spot. It has been further submitted that petitioner No. 1 also filed an application before the Block Development Officer, Mendhar, seeking cancellation of the construction permission granted in favour of the father of the complainant-respondent No. 4, and the permission was cancelled by the Block Development Officer, Mendhar, vide order dated 01.07.2025. It has been further submitted that respondent No. 4-complainant filed a suit for permanent prohibitory injunction against the petitioners before the learned Munsiff, Mendhar, and vide order dated 02.03.2026, status quo was directed to be maintained on the spot. Giving the history of litigation between the parties, it has been submitted that the Executive Magistrate 1st Class, Harni, by virtue of

order dated 08.08.2025, directed respondent No. 4 and his entire family to furnish bonds for maintaining peace and security.

4. It has been submitted that, on the date of the alleged incident, petitioner No. 2 was returning home when respondent No. 4 attacked him, as a result of which petitioner No. 2 received serious injuries. An application was filed by petitioner No. 2 before the Police for registration of an FIR, but no action was taken by the police authorities.
5. Thus, the petitioners have challenged the impugned FIR on the ground that respondent No. 4 has initiated criminal proceedings with an ulterior motive and to wreak vengeance against them. It has been contended that the impugned FIR has been lodged with a view to give a criminal colour to the civil litigation between the parties.
6. I have heard learned counsel for the petitioners and perused record of the case.
7. The law governing the exercise of power under Section 528 of the BNSS, 2023, for quashing an FIR is well settled. It is only where the allegations made in the FIR do not constitute a cognizable offence, or where the allegations levelled are the result of mala fides and personal grudge with a view to wreak vengeance upon the accused persons, that the Court would exercise its powers to quash the FIR and the proceedings emanating therefrom.
8. In the present case, a bare perusal of the contents of the impugned FIR would reveal that cognizable offences are disclosed against the petitioners. It has been specifically alleged by the complainant that he was attacked by petitioner No. 2 with a khokhri, as a result of which

he received grievous injuries, which led to his hospitalization. This clearly discloses the commission of a serious cognizable offence. It may be true that the reason for lodging the FIR against the petitioners may be a civil dispute going on between the parties. Invariably, every criminal offence owes its origin to an underlying civil dispute. Merely because there is a civil litigation going on between the petitioners and the complainant party cannot form a ground to quash the criminal proceedings. The question whether the impugned FIR has been lodged by respondent No. 4 with a view to wreak vengeance upon the petitioners can also be gone into by the Investigating Agency during the investigation of the case.

9. Once it has been specifically alleged by the complainant that he was attacked by petitioner No. 2 with a sharp-edged weapon, which led to grievous injuries to him, this Court cannot restrain the Investigating Agency from undertaking investigation of the case. Once cognizable offences are disclosed from the contents of the impugned FIR, it is the statutory duty of the Investigating Agency to undertake investigation in the case.

10. For the foregoing reasons, I do not find any ground to exercise powers under Section 528 of the BNSS so as to quash the impugned FIR and the proceedings emanating therefrom. The petition lacks merit and is **dismissed** accordingly.

(Sanjay Dhar)
Judge

Jammu
31.08.2026
Madan Verma-Secy

Whether order is speaking? **Yes**
Whether order is reportable? **No.**