

Serial No. 63

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

CRM(M) No.747/2023

Reserved on: 10.07.2026
Pronounced on: 16.07.2026
Uploaded on: 16.07.2026
*Whether the part or full
judgment is pronounced: Full*

Gandharb Singh Chib

S/O Ranjha Singh Chib
R/O House No.45, Sec. 1,
Upper Roop Nagar
Jammu.

.....Petitioners

Through: Mr. Rahul Pant, Senior Adv. with
Mr. Vivek Jamwal, Advocate.

Vs.

Sahil Manhas,
S/O Balbir Singh
R/O K B Nagar,
Bantalab, Jammu

..... Respondents

Through: Mr. J. P. Gandhi, Advocate

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

JUDGMENT

1. On a complaint moved by respondent- Sahil Manhas alleging that on 05.08.2023 when he was called to the Janipur Police Station in a case lodged by one- Anshuman Singh Chib, one- Gandharb Singh Chib along with six other persons started misbehaving and abusing him, in presence of SI Maqbool and Ct. Mushrat Manhas and when he resisted and tried to move out of the room, the said Gandharb Singh Chib, Ankush Singh and Gourav Chib and two unknown persons stopped his way and attacked, in the office of the SHO, due to which, he received multiple injuries all over the body, the learned Judicial Magistrate (Sub Registrar Jammu) vide order dated 14.08.2023 directed SHO, P/S Janipur to register a case for investigation.

2. Petitioner Gandharb Singh Chib, accused in the above complaint, has filed this petition invoking inherent jurisdiction vested in this court in terms of Section 482 of the CrPC (akin to Section 528 of BNSS, 2023) seeking quashing of the order dated 14.08.2023, whereby in the complaint titled 'Sahil Manhas V. UT of J&K and Ors.' filed by the respondent, a case was ordered to be registered.

3. The impugned order has been assailed on the ground that the respondent-complainant has implicated the petitioner in a false and frivolous case and that the learned Magistrate has passed the order without application of mind, insomuch so that in terms of law, the complainant is first required to file a complaint of his grievances to the Police Station concerned and in case of no action taken, he can approach the Senior Superintendent of Police concerned for his grievances and if it also meets the same fate, then he has an option of approaching a court seeking direction for registration of the case, however, in the case on hand, the complainant placed on record a copy of the complaint addressed to Incharge, Police Station, Janipur dated 05.08.2023, wherein the petitioner has not been named as an accused, as the complainant has specifically shown the names of culprits as his son Ankush, Gourav Chib besides two unknown boys and that in his application to the SSP, Jammu on 08.08.2023, he has also named the culprits as Ankush, Gourav Chib and some unknown persons, without disclosing the name of the petitioner herein; that in his complaint before the court, the complainant, however, improvised his version by stating the name of the accused as Anshuman Singh Chib, Gandharb Singh Chib (petitioner herein) and Ankush Chib; that besides petitioner, his son Anshuman Singh Chib and Ankush Chib have been named in the complaint; the impugned order has been assailed and sought to be quashed being an abuse of the process of law, to implicate the petitioner, who is an innocent person.

4. Pursuant to notice, the respondent-complainant Sahil Manhas, filed reply, controverting the assertions made in the petition, pleading that he was assaulted by the petitioner, along with his sons Anshuman Singh Chib and Ankush Chib besides one Gourav Chib in the premises of Police Station Janipur when he had gone there in connection with case registered against him; that he was brutally assaulted by all of them and that he moved application, then and there, to the SHO Police Station concerned to take action in the matter, that he had to go to Government Hospital Sarwal to seek treatment for his injuries, where he was attended to in the Emergency as a case MLC No.4662 and that he had received injury on his left eye regarding which he had also placed on record photographs; that there being no action on the part of SHO concerned, on 08.08.2023, he moved an application to the SSP concerned, who also did not take any action in the matter, as such, he was compelled to approach the court of law, with a complaint whereupon the impugned order was passed by the learned Magistrate directing the police concerned to register a case, however, before the case could be registered, the petitioner has challenged the order impugned through the medium of the petition on hand, and it was prayed to reject the petition, being without any merit and substance.

5. Mr. Rahul Pant, learned senior counsel appearing for the petitioner has argued that the impugned order has been passed by the learned Magistrate without due application of mind as he has overlooked the applications earlier moved by the complainant/respondent to the SHO P/S Janipur and SSP concerned, wherein the petitioner had not been named as an accused and that it was an afterthought on the part of the respondent/complainant to implicate the petitioner as well, when he approached the court of learned Magistrate for the first time, the name of the petitioner was introduced as an accused. He argued that the impugned order is

vitiated for the aforesaid reasons to the extent of petitioner and is liable to be quashed.

6. Mr. J.P. Gandhi, learned counsel, appearing for the respondent/complainant argued that in view of an incident having taken place near Aap Shambu Mandir on 05.08.2023, the respondent/complainant was summoned as an accused at the Police Station on 08.08.2023 where he was assaulted by the petitioner Gandharb Singh Chib and his sons, besides some other persons in presence of the police, however, no action was taken despite an application in his behalf moved to the SHO concerned and that SSP concerned had also not taken any action on his application moved before him, as such, he was compelled to move a complaint to the learned Magistrate who passed the order as was legally required, as such, there is not illegality in the order passed by the learned Magistrate and that inherent power vested in this court has to be used sparingly and the impugned order having been perfectly passed in accordance with law does not call for any interference at this stage.

7. Mr. Gandhi further argued that this petition is not maintainable in view of law laid down by the Apex Court in 'HDFC Securities Ltd. & Ors. v. State of Maharashtra & Anr' reported at **(2017) 1 SCC 640** and of this court in the case 'O.P. Kakroo & Anr. V. Rajan Gandhi & Anr' reported at **2017 (3) JKJ 397**.

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

9. The petitioner has assailed the order dated 14.08.2023 passed by the learned Judicial Magistrate (Sub Registrar) Jammu, in complaint titled 'Sahil Manhas V. UT of J&K & Ors' directing SHO Police Station Janipur to register a

case for investigation. The petitioner has not waited for registration of the crime, so as to throw a challenge to the FIR to be registered pursuant to the impugned order.

10. The Apex Court in a case titled '*HDFC Securities Ltd. & Ors. V. State of Maharashtra & Anr.*' reported as **(2017) 1 SCC 640** where a similar petition assailing the order passed by the learned 10th Metropolitan Magistrate, Andheri, directing Juhu Police Station to register an FIR, had been dismissed by the High Court of Bombay on the premise that this order cannot be challenged and only the FIR registered pursuant to the order can be challenged by the accused. The Apex court held that the order passed under Section 156(3) CrPC requiring investigation by the police cannot be said to have caused an injury of irreparable nature, which, at this stage, requires quashing of the investigation; that the stage of cognizance would arise only after the investigation report is filed before the Magistrate, as such, in their opinion, the High Court had correctly assessed the fact and the law in that situation and held that filing of the petitions under Article 227 of the Constitution or under Section 482 of CrPC are nothing but premature.

11. This court had also in a case titled '*O P Kakroo & Anr. V. Rajan Gandhi & Anr.*' reported as **2017 (3) JKJ 397** relying the aforestated Supreme Court judgment held that petition under Section 561-A CrPC (akin to Section 482 of CrPC and now Section 528 of BNSS, 2023) is not maintainable.

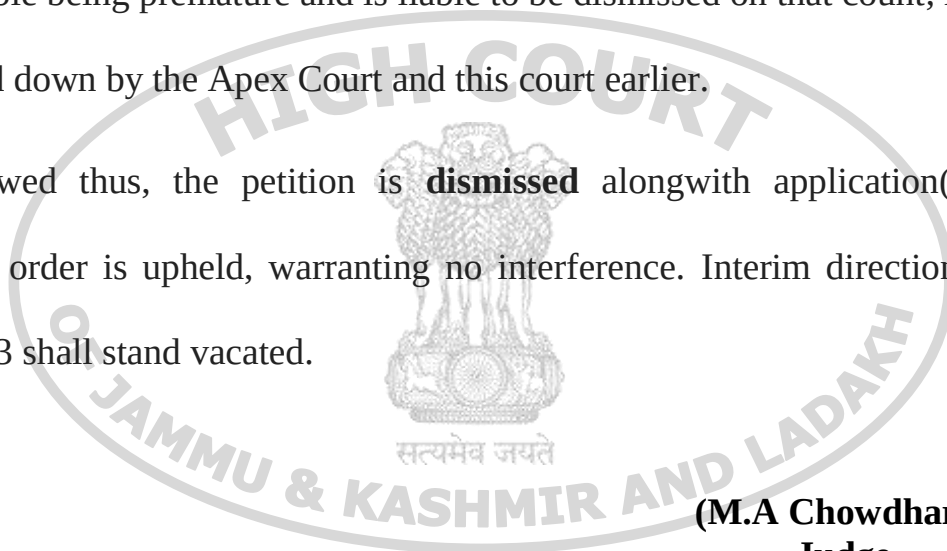
12. The Judgment dated 25.08.2021 passed by a Co-ordinate Bench in CRMC No.219/2014 (2021:JKLHC-JMU:615) and relied by the learned senior counsel for the petitioner, being not applicable is not relevant in this case, as it was the

case as to whether the order directing registration of the case was based on reasons or not, which is not the subject matter of this petition, as the impugned order has been passed assigning plausible reasons.

13. It is an admitted case that the petitioner had challenged the order passed by the learned Magistrate directing investigation of the case and had not challenged the FIR, if any, registered pursuant to the impugned order.

14. Having regard to the law laid in the judgments discussed hereinabove, the petition filed by the petitioner to challenge the impugned order whereby investigation was ordered and not the FIR, the petition is held to be not maintainable being premature and is liable to be dismissed on that count, in view of law laid down by the Apex Court and this court earlier.

15. Viewed thus, the petition is **dismissed** alongwith application(s) and impugned order is upheld, warranting no interference. Interim direction dated 04.09.2023 shall stand vacated.



(M.A Chowdhary)
Judge

Jammu:
16.07.2026
Rajkumar

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