

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

**CRMC 324/2018
IA(1/2018)**

**Date of Pronouncement: 20.02.2026
Date of uploading: 24.02.2026**

DINESH SAWHNEY

...Petitioner/Appellant(s)

Through: Mr. Mandeep Singh, Advocate

Vs.

**STATE OF J AND K TH.
COMMISSIONER SECRETARY HOME
DEPT. AND ORS**

...Respondent(s)

Through: Mr. Vipin Gandotra, Advocate

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

**ORDER
20.02.2026**

1. By way of the present petition, the petitioner seeks quashment of FIR No. 0103/2018 dated 13.04.2018 registered at Police Station Bahu Fort for offences under Sections 353, 504 and 506 RPC. The principal contention raised is that the FIR has been lodged with mala fide intention by respondent No. 4 to wreak vengeance upon the petitioner and to tarnish his reputation, particularly when he was on the verge of retirement. It is urged that the allegations, even if taken at their face value, do not disclose commission of any cognizable offence and are inherently improbable.
2. The factual matrix, as emerging from the record, reveals that on 12.04.2018 respondent No. 4, while discharging official duties and

holding a meeting with subordinate officers concerning the functioning of the State Forest Corporation, was allegedly confronted by the petitioner, who entered the office chamber and initiated a discussion regarding his promotion. It is alleged that the petitioner obstructed official business, shouted, abused the complainant, picked up a glass lying on the table and attempted to assault him. The complainant was allegedly saved by other officers present. On the basis of the said allegations, the impugned FIR came to be registered.

3. The respondents contend that investigation has been conducted in accordance with law; statements of witnesses have been recorded, site plan prepared and sufficient material has surfaced establishing *prima facie* commission of offences under Sections 353, 504 and 506 RPC. It is further submitted that the scope of interference under Section 561-A Cr.P.C. is extremely limited.
4. Per contra, learned counsel for the petitioner submits that the petitioner had visited the office in his capacity as a union member to question illegal promotions allegedly granted by respondent No. 4. It is asserted that the complainant tore the representation submitted by the petitioner and thereafter falsely implicated him. Reliance is placed upon *State of Haryana v. Bhajan Lal 1992 SUPP (1) SCC 335*, *B.N. John v. State of Uttar Pradesh 2025 INSC 4*, *Naresh Aneja v. State of Uttar Pradesh AIR (2014) SC 957*, to contend that where ingredients of offences are not made out, proceedings deserve to be quashed.
5. Heard both counsels. The law governing exercise of inherent jurisdiction to quash criminal proceedings stands crystallized in *Bhajan Lal's* case, (supra) wherein the Hon'ble Supreme Court

illustratively enumerated categories where interference would be warranted. One such category is where the allegations, even if accepted in entirety, do not *prima facie* constitute any offence.

6. Section 353 IPC, which is *pari materia* to Section 353 RPC, criminalizes assault or use of criminal force against a public servant while such public servant is discharging official duties, or with intent to prevent or deter him from discharging such duties. The provision postulates the coexistence of four essential elements: firstly, that the victim must be a public servant; secondly, that such public servant must be acting in the discharge of official duty; thirdly, that there must be an assault or use of criminal force; and fourthly, that the act must have been committed with the intention of deterring or preventing the discharge of official functions.
7. The scope and ambit of Section 353 IPC have been considered by the Hon'ble Supreme Court in several decisions. In ***Manik Taneja v. State of Karnataka***, (2015) 7 SCC 423, the Court examined whether mere verbal criticism or expression of grievance against police officers would attract Section 353 IPC. The proceedings were quashed on the ground that there was no allegation of assault or use of criminal force. The Court clarified that for invocation of Section 353 IPC, there must be material disclosing either actual use of force or at least an act amounting to assault within the meaning of Section 351 IPC. Mere words, absent any overt act creating apprehension of force, would not suffice.
8. The expression "assault" under Section 351 IPC includes not only physical contact but also gestures or preparations which give rise to an

apprehension that criminal force is about to be used. In ***Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194***, while discussing the meaning of assault and criminal force, the Supreme Court held that even conduct creating reasonable apprehension of use of force would fall within the statutory definition. Thus, physical injury or actual impact is not a sine qua non; what is material is the intention behind the act and the apprehension caused to the victim.

9. The requirement of intention to deter a public servant is ordinarily inferred from surrounding circumstances. Direct evidence of intent is rarely available. In ***State of Maharashtra v. Mohd. Yakub, 1980 SCC (3) 57***, though rendered in a different statutory context, the Supreme Court observed that intention is to be gathered from conduct and attendant circumstances. Where an accused enters the chamber of a public servant during official proceedings and engages in conduct that obstructs or intimidates the officer, such conduct may reasonably give rise to an inference of intent to deter the discharge of official duties.
10. The limits of interference at the stage of quashing criminal proceedings have also been authoritatively laid down. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 SCC Online SC 315***, the Supreme Court reiterated that while exercising inherent jurisdiction, the High Court is only to examine whether the FIR discloses *prima facie* commission of an offence. The Court cannot embark upon meticulous appreciation of evidence or adjudicate disputed questions of fact. This principle flows from the earlier decision in ***Bhajan Lal's*** case (supra) where illustrative categories

were carved out for quashing, including cases where allegations do not disclose any offence even if taken at face value.

11. Thus, the jurisprudence emerging from the aforesaid decisions draws a clear distinction between mere verbal altercation and acts amounting to assault or criminal force. Where allegations are confined to exchange of words, the offence may at best fall under Sections 504 or 506 IPC. However, where there is an overt act capable of creating reasonable apprehension of imminent use of force against a public servant while he is performing official duties, the ingredients of Section 353 IPC are *prima facie* attracted. At the stage of quashment, the Court is not to weigh the defence version or assess comparative probabilities but only to ascertain whether the statutory ingredients are disclosed on the face of the record.

12. In the present case, the FIR specifically alleges that the petitioner entered the office chamber during official proceedings, obstructed the meeting, shouted and abused the complainant, picked up a glass lying on the table and attempted to assault him. Such allegations, on their plain reading, *prima facie* disclose ingredients of Section 353 RPC. The act attributed is not confined merely to verbal altercation but extends to an overt act capable of creating apprehension of use of criminal force while the complainant was discharging official functions.

13. The defence set up by the petitioner, that he had raised issues regarding illegal promotions, is essentially a disputed question of fact. No material has been placed on record substantiating the alleged illegal promotions or the representation claimed to have been torn. At

the stage of quashment, this Court cannot undertake a meticulous appreciation of evidence or weigh the comparative probabilities of rival versions.

14. The material collected during investigation, as submitted by the respondents, supports the prosecution version. The petitioner has failed to demonstrate that the investigation is tainted or that the prosecution is manifestly attended with mala fide. Merely because the petitioner asserts a defence does not warrant invocation of inherent jurisdiction.

15. The decisions relied upon by the petitioner are distinguishable on facts. In those cases, the essential ingredients of the alleged offences were absent. In the present case, however, the FIR and the material gathered during investigation disclose *prima facie* commission of cognizable offences.

16. In view of the aforesaid discussion, this Court finds no ground to exercise jurisdiction under Section 561-A Cr.P.C. The petition is accordingly *dismissed*. The investigating agency shall proceed with investigation and file charge sheet in accordance to law. It is, however, clarified that any observation made herein is confined to adjudication of the present petition and shall not influence the trial Court while considering the charge-sheet or conducting trial.

(SANJAY PARIHAR)
JUDGE

JAMMU:
20.02.2026
Akshil Dev

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