

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) No. 913/2024

Reserved on: 31.07.2026

Pronounced on: 05.08.2026

Uploaded on: 05.08.2026

Operative part or full judgment : Full

Romesh Chander Anand

S/O Late Babu Ram Anand
R/O House No. 218, Adarsh Enclave
Lane No. 02, Sector-1, Ext.
Trikuta Nagar, Jammu.

...Petitioner(s)

Through: Mr. Ajay Gandotra, Sr. Adv. with
Mr. Yogeshwar Singh, Adv.

Vs.

1. **UT of J&K through SHO,**
Police Station, Kathua
District Kathua.
2. **Arvind Kumar Gupta,**
S/O Late M.L. Gupta,
R/O Ward No. 01, Jawahar Nagar,
Kathua District Kathua.

...Respondent(s)

Through: Mr. Suneel Malhotra, GA

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

JUDGMENT

1. The present petition has been filed by the petitioner in terms of Section 528 of the BNSS, 2023, seeking quashment of FIR No. 346 of 2022 dated 05.09.2022 registered at Police Station, Kathua for offences punishable under Sections 451, 504 and 506 of IPC, alleging his false implication.
2. It is pleaded in the petition that the petitioner has been falsely implicated by the respondent No. 2/complainant and

the incident is motivated to involve the petitioner into unnecessary and uncalled for litigation just, to harass the petitioner in order to wreck vengeance; that the impugned FIR is an act of counter blast as against criminal act committed by respondent No. 2 who has illegally and wrongfully encroached upon the land of the petitioner, as a consequence whereof a case vide FIR No. 382/2014 under Sections 447, 427 RPC on 02.11.2014 came to be registered against the respondent No. 2/complainant in Police Station, Kathua; that the respondent No. 2/complainant thereafter filed petition for seeking quashment of the aforesaid FIR which was dismissed by this Court; that as a counterblast, another case vide FIR No. 358/2014 was got registered against the petitioner and two others, namely, Khajan Singh and Sat Pal, which was challenged by the petitioner along with two others in this Court by way of filing CRMC No. 573/2015 which was allowed and the said FIR stood quashed with the direction to the Police Station, Kathua to conclude the investigation with respect to FIR No. 382/2014 dated 02.11.2014 registered against the respondent No. 2/complainant.

3. It is further pleaded in the petition that despite the direction of this Court, the then SHO, Police Station, Kathua did not proceed with the investigation of FIR No. 382/2014; that the petitioner and other owners of conjoint plots approached the

revenue officials including Deputy Commissioner, Kathua for demarcation of the land comprised under Khasra No. 230 as against the land of respondent No. 2, falling under khasra No. 2301 in respect whereof mutation No. 1697 has been attested and Deputy Commissioner, Kathua received the report from Tehsildar, Kathua on 31.10.2014 where it was confirmed that respondent No. 2 started construction work in plot No. 1 falling on the southern side of his plot and it amounts to encroachment by illegal means.

4. It is alleged that when the petitioner while accompanying the Patwari to conduct demarcation of land to prove the commission of offence by respondent No. 2/complainant on 22.08.2022, reached near the gate of the respondent No. 2/complainant, he was abused and dragged by respondent No. 2 and his son Arjun Gupta inside their compound, as a result whereof, the petitioner lodged a complaint on 25.08.2022 to SHO Police Station, Kathua; that the respondent No. 1, however, at the behest of respondent No. 2/complainant, in order to pressurize the petitioner, managed the commencement of investigation of impugned FIR which was so registered at his behest on 05.09.2022; that the respondent No. 2/complainant has also filed civil suit of Declaration and Injunction against the petitioner and other owners of conjoint plots in the court of learned Munsiff, Kathua, which is pending adjudication and the

impugned FIR is the result of animosity. Finally, it has been prayed that the impugned FIR being abuse of the process of law, be quashed.

5. Pursuant to notice, respondent No. 1 has filed the status report stating therein that the respondent No. 2/complainant filed a complaint against the petitioner alleging therein that on 22.08.2022, the demarcation of the land in dispute was to be conducted and at about 11.30 a.m, the accused (petitioner herein) came to the complainant's house and when the respondent No. 2/complainant opened the gate for the Patwari conducting the demarcation, the accused forcibly entered the house, abused and assaulted the respondent No. 2/complainant with fists and blows; that before leaving, the accused threatened to kill the respondent No. 2/complainant and it was prayed in the complaint that appropriate legal action be taken against the accused, in accordance with law; that as per the contents of application, impugned FIR was registered against the petitioner for offences punishable under Sections 451, 504 and 506 of IPC.
6. Respondent No. 1 was directed to furnish the status report of the investigation in case FIR No. 382/2014 registered against the respondent No. 2/complainant by the petitioner who, in his compliance report, stated that on 12.10.2014 the respondent/complainant criminally trespassed into the land of the petitioner and dismantled the brick wall of the

petitioner's land; that on this report, the case was registered; that during the course of investigation, the then I.O visited on spot, prepared site plan, recorded the statements of the witnesses under section 161 CrPC; that vide different letters communications were addressed to Tehsildar concerned for demarcation of land measuring 01 kanal comprising of khasra No. 230 min situated at Taraf Tajwal, tehsil and district Kathua but till date the demarcation of the above said land has not been carried out by the concerned department nor the report thereof has been provided to the respondents. Finally, it has been stated in the said compliance report that after obtaining the said demarcation report, the investigation of the case would be taken up accordingly.

7. Respondent No. 2/complainant, despite service of notice upon him, chose neither to appear nor file any reply/objections to the petition filed by the petitioner to seek quashing impugned FIR, lodged by the respondent No. 2/complainant.
8. I have heard learned counsel for the parties and perused the material available on record.
9. The admitted factual position emerging from the record is that both the parties are entangled in a long-standing dispute concerning possession and alleged encroachment over adjoining parcels of land. Criminal proceedings between

them have been pending since the year 2014. The existence of FIR No. 382/2014 lodged by the petitioner against respondent No. 2, the previous litigation before this Court, the pending civil proceedings concerning the same property and the undisputed fact that demarcation proceedings were scheduled on the date of the alleged occurrence unmistakably demonstrate that the genesis of the dispute is essentially, civil in nature.

10. Significantly, the compliance report filed by respondent No. 1 discloses that even after more than a decade, the investigation in FIR No. 382/2014 has remained incomplete because the demarcation of the land has not been either undertaken or succeeded to be completed by the Revenue Authorities. When the basic issue in dispute, namely, the exact location and boundaries of the land belonging to the parties, has not yet been finally determined, the allegations made in the impugned FIR cannot be considered separately from the ongoing civil disputes with regard to land between them. The pendency of the earlier criminal case instituted by the petitioner and the failure of the investigating agency to conclude the same despite the earlier directions of this Court lend considerable support to the petitioner's plea that the present FIR has been lodged only as a counterblast to the earlier case.

11. It is not out of place to mention that the alleged occurrence is stated to have taken place on the very day when official demarcation proceedings were to be conducted by the Revenue officials. The petitioner has consistently stated that he had accompanied the Patwari in connection with the demarcation, which is an admitted fact in the FIR and that complainant himself had submitted a complaint to the police immediately after the incident. The respondents have not disputed the existence of such complaint. These facts create doubt about the version put forward by the prosecution and show that the criminal proceedings appear to have arisen out of the existing property dispute between the parties.
12. The allegations contained in the impugned FIR, even if accepted at their face value, do not disclose any element independent of the underlying land dispute. The allegations of criminal trespass, abuse and criminal intimidation are closely connected with the ongoing dispute regarding the demarcation of land and the alleged encroachment. It appears that the criminal case has arisen out of this property dispute and is, in substance, a continuation of the civil dispute between the parties, rather than a case involving an independent criminal offence.
13. The inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is intended to prevent abuse of the process of law and to secure the ends

of justice. Where criminal proceedings are started only to take revenge in a dispute which is intrinsically, civil in nature, and the facts clearly show that the complaint has been filed with a dishonest or mala fide intentions, allowing such proceedings to continue would amount to abuse of the legal process. The Supreme Court has consistently held that although the inherent powers of the High Court should be exercised with great caution and only in exceptional cases, the Court can quash criminal proceedings where they are clearly motivated by 'mala fide' intentions or have been initiated only to harass the accused and settle personal scores.

14. In the present case, the chronology of events assumes considerable significance. The earlier FIR lodged by the petitioner against respondent No. 2 remains pending investigation. The dispute regarding encroachment is yet to attain finality. Civil proceedings concerning the same subject matter are also pending. The impugned FIR came to be registered immediately after the visit of revenue officials for demarcation proceedings and in the backdrop of the continuing hostility between the parties.
15. Permitting the investigation and prosecution to continue in such circumstances would not advance the cause of criminal justice but would instead amount to encouraging the misuse of the criminal process for settling private scores. This Court

is, therefore, satisfied that the present case falls within the well-recognised parameters governing the exercise of inherent jurisdiction to prevent abuse of the legal process of the Court and to secure the ends of justice.

16. Consequently, the petition is allowed. Impugned FIR No. 346 of 2022 dated 05.09.2022 registered at Police Station, Kathua for offences punishable under Sections 451, 504 and 506 IPC, against the petitioner, together with all consequential proceedings arising therefrom, is hereby quashed.

17. Disposed of accordingly along with connected application(s).

(M A CHOWDHARY)
JUDGE

JAMMU
05.08.2026
Naresh/Secy.

Whether the order is reportable: Yes
Whether the order is speaking: Yes

...