

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CRM(M) No. 3/2022

Khalid Mehmood & Ors.

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

Through: Mr. R.P Sharma, Sr. Advocate with
Mr. Nigam Saroop, Advocate.

vs

UT of J&K & Ors.

.....Respondent(s)

Through: None.

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

ORDER
21.04.2026

- 01.** None appears for respondent no. 4 despite service, hence case is taken on board for final consideration.
- 02.** Petitioners have invoked inherent jurisdiction of this Court for the quashment of FIR No. 41/2017 for offences under Sections 420/109 RPC, registered with Police Station Poonch, primarily on the ground that order dated 30.03.2017 of learned CJM, Poonch, on the basis of which impugned FIR came to be lodged, had since been quashed by this Court in CRMC No. 200/2017.
- 03.** A perusal of the record reveals that respondent no. 4 preferred an application in the Court of learned CJM, Poonch on 07.01.2017 and vide order dated 30.03.2017, CJM, Poonch forwarded said application to SHO, Police Station Poonch under Section 156 (3) CrPC for investigation of the case. This order came to be assailed by the petitioners in this Court by way of CRMC No. 200/2017 titled "*Khalid Mehmood & Ors. vs. State of J&K & Ors.*", and this Court vide order dated 15.10.2018 quashed the said order dated 30.03.2017 passed by learned CJM, Poonch. Relevant excerpt of the order reads as below:-

"Chapter XVI of Cr. P.C deals with the Complaint to Magistrates. As per this Chapter, once a Magistrate takes cognizance, he has to proceed under Section 200 Cr. P.C. In terms of Section 200 Cr.P.C, a Magistrate is required to record the statement of the complainant and the witnesses, if any upon oath

and the substance of the examination shall be reduced to writing. In terms of Section 202 Cr. PC, if a Magistrate on receipt of a complaint of an offence of which he is authorized to take cognizance, or which has been transferred to him under Section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against and either enquire into the case himself, or, direct an inquiry or investigation to be made by any Magistrate subordinate to him or by an police officer, or by such other person as he thinks fit for the purpose of ascertaining the truthfulness of allegations leveled in the case. In terms of Section 203 Cr. P.C, the Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after considering the statement on oath (if any) of the complainant and the witnesses and the result of the investigation or inquiry (if any) under Section 202 Cr. P.C. Once a cognizance has been taken by the Magistrate, the Magistrate has no power to send the complaint to Police Station for investigation under Section 156 (3) Cr.P.C because this power has to be exercised at pre-cognizance stage and not at post-cognizance stage. Therefore, the order of the Trial Court is not according to law. It is, accordingly, set aside. However, Magistrate is directed to pass an appropriate order on the complaint on the basis of enquiry report as per the provisions of Sections 203 and 204 Cr. P.C.”

04. A perusal of the record reveals that after the aforesaid pronouncement of this Court, the private respondent/complainant approached CJM, Poonch, with an application for summoning the petitioners/accused in the light of the said order of this Court and said application also came to be dismissed as withdrawn vide order dated 09.10.2019 passed by learned CJM, Poonch.
05. In view of the above, since basic order of the Magistrate, pursuant to which impugned FIR came to be lodged has since been quashed by this Court, further investigation shall be without jurisdiction.
06. Hence, present petition is allowed and impugned FIR along with all consequential proceedings, are quashed.
07. Disposed of along with connected application(s).

(Rajesh Sekhri)
Judge

Jammu
21.04.2026
Abinash