

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 18/2023
CrIM No. 1843/2025

Reserved on: 07.05.2026

Pronounced on: 13.05.2026

Uploaded on: 14.05.2026

Operative part or full Judgement: Full

Abdul Gani Mir, Aged 68 years
S/O Ghulam Mohammad Mir
R/O Urchirsoo, District Pulwama

.....Petitioner(s)

Through: Mr. Malik Mushtaq & Mr. Younis Ahad, Advocates

Vs.

1. UT of J&K through SHO,
Police Station, Pulwama

2. Tehsildar Pulwama

... .Respondent(s)

Through: Mr. Furqan Yaqub, GA & Mr. Zahid Qais Noor, GA

CORAM:

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

JUDGEMENT

01. The petitioner has invoked the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure (Cr.PC) seeking the quashment of FIR No. 03 of 2023 dated 02.01.2023, registered at Police Station, Pulwama, for the offences under Sections 353 and 506 of the Indian Penal Code (IPC).
02. The factual matrix, as pleaded in the petition, is that the impugned FIR was lodged following a complaint from respondent no.2-Tehsildar, Pulwama, alleging that on 02.01.2023, the petitioner harassed and criminally intimidated

one Reyaz Ahmad Deedad, Patwari Halqa Gangoo, while he was discharging his official duties at village Urchirsoo.

03. It is averred in the petition that the petitioner had filed applications for the preservation of *Kahcharia* (grazing) land and the restoration of his ingress and egress; that the Divisional Commissioner, Kashmir, had issued multiple directions for the removal of encroachments; that due to the alleged failure of Respondent No. 2 (Tehsildar) to discharge his duties, the petitioner filed a complaint before the Divisional Commissioner, Kashmir. Consequently, on 27.04.2022, Respondent No. 2 was directed to explain his position within three days. The petitioner further approached the personal section of the Advisor to the Lt. Governor, which resulted in a direction dated 27.12.2022, ordering the Deputy Commissioner, Pulwama, to retrieve state land and seeking an explanation from Respondent No. 2 for dereliction of duty. In this background, it is submitted that the registration of case pursuant to lodging of complaint by the complainant-Tehsildar against the petitioner can be stated to be misuse of the legal process, due to his personal vendetta.
04. Aggrieved of the impugned FIR, the petitioner challenges the same, primarily, on the grounds that the FIR is alleged to be an abuse of the process of law, as the allegations in the complaint do not disclose the commission of any cognizable offence; that the complaint lacks material ingredients as it does not specify any act of "assault" or "criminal force" and merely reproduces the statutory language of the IPC sections in verbatim; that the FIR

was lodged maliciously with an ulterior motive for wreaking vengeance; that the Respondent No. 2, upon learning of the Advisor's order seeking his explanation, filed the complaint the very next day to pressurize the petitioner; that the allegations are characterized as general, sweeping, inherently improbable, and unsubstantiated, designed solely to implicate the petitioner in a baseless legal proceeding.

05. Conversely, the respondents, in their objections and status report, contended that the petitioner is himself an encroacher on *Shamilat/Kahchari* land (Survey No. 1093/818). They submit that despite notices and the dismissal of his revision petition by the Divisional Commissioner, Kashmir, and thereafter upholding the order by the Joint Financial Commissioner, the petitioner failed to remove the illegal encroachment. It is stated in the objections that on 02.01.2023, while the Patwari was conducting a lawful demarcation of common land, the petitioner allegedly went "berserk," harassed the official, and threatened him with dire consequences, if the demarcation is not stopped. The incident was verified by field reports from the *Lumberdar Deh*, the concerned Patwari, and the Naib Tehsildar, Pulwama. Respondent No. 1 (Police) reported that the scene of the crime was inspected, a site plan was drafted, and statements of witnesses were recorded under Section 161 Cr.PC, which *prima facie* establish the charges under Sections 353 and 506 IPC.
06. Heard learned counsel for the parties and perused the material on record.

07. Learned counsel for the petitioner vehemently argued that the impugned FIR is an example of "malicious prosecution". Learned counsel submitted that the ingredients of Section 353 IPC are entirely missing, as there is no allegation of physical "assault" or use of "criminal force" against the public servant. He emphasized that the petitioner was merely asserting his legal rights regarding the preservation of grazing land and that the criminal machinery is being misused to settle a civil and administrative score, thereby warranting the intervention of this Court to prevent the abuse of the process of law.
08. Per contra, the learned counsel appearing for the respondents submitted that the petitioner has approached this Court with unclean hands by suppressing his own status as an illegal encroacher on state land. He argued that the investigation has already yielded incriminating evidence, including statements of eye-witnesses recorded under Section 161 Cr.PC, which *prima facie* establish that the petitioner obstructed and intimidated a public official during a lawful demarcation exercise. He concluded that since the impugned FIR discloses the commission of cognizable offences, the investigation has been concluded into the chargesheet for the commission of offences punishable under Sections 353 and 506 IPC and is awaiting directions of this Court, to lay the chargesheet in the court of law, and the disputed questions of facts raised by the petitioner can only be tested during a full-fledged trial.

09. The law regarding the exercise of inherent powers under Section 482 Cr.PC is well-settled. In State of *Haryana v. Bhajan Lal* (1992 Supp (1) SCC 335), the Hon'ble Supreme Court held that the power to quash an FIR should be exercised "very sparingly and with circumspection." Similarly, in *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra* (2021), it was reiterated that the Court cannot embark upon an inquiry into the reliability or genuineness of the allegations when the same disclose a cognizable offence.
10. In the instant case, there are conflicting versions of the events of 02.01.2023. While the petitioner alleges administrative vendetta, the respondents have produced a trail of revenue proceedings and witness statements corroborating the alleged obstruction of a public servant. At this stage, this Court cannot conduct a "mini-trial" to evaluate the veracity of the evidence. The allegations in the FIR, supported by investigation records, disclose a *prima facie* case that warrants further consideration by the competent court of law.
11. Having regard to the pleadings, rival submissions and facts and circumstances of the case, it comes up that petitioner was present, as not denied by the petitioner himself, at the time of demarcation of the encroached land, by the Mr. Reyaz Ahmad Deedad, Patwari Halqa concerned, who was allegedly obstructed from the discharge of his official duty, having been criminally intimidated by the petitioner, the impugned FIR has ingredients to constitute both the offences punishable under Sections 353 and 506 IPC.

Moreover, petitioner is also alleged to have encroached the land and was raising protests against the Revenue Officers, for their inaction to remove encroachments by certain other persons.

12. In this backdrop of the matter, for the aforesaid reasons and discussions made hereinabove, this Court is of the considered opinion that the impugned FIR which has culminated into a chargesheet, cannot be quashed as the alleged offences are “*prima facie*” constituted and there is no abuse of the process of law. The petitioner, however, shall be legally entitled to raise the issue of non-constitution of offences before the trial court, at the time of consideration of charge.
13. Viewed thus, the petition is found to be bereft of any merit and substance and is liable to be rejected. As a result, the petition is **dismissed**, along with connected application(s). Interim direction is vacated. Prosecution shall be at liberty to lay chargesheet before the competent court of law.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

13.05.2026

Manzoor

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No.