

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

CRM(M) No.506/2026
CrIM No.(1169/2026)
CrIM No.(1170/2026)

GHULAM NABI RATHER & ANR.

...PETITIONER(S)

Through: -Mr.Parvaez Ahmad Wani, Advocate
Mr. Lone Altaf, Advocate
Vs.

UT OF J&K & ORS

...RESPONDENT(S)

Through:-Mr.Mohsin Qadri, Sr.AAG
with Mr. Harris, Asstt.Counsel

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

ORDER(ORAL)

- 1) The petitioners, through the medium of the present petition, have challenged FIR No.102 of 2026 for offences punishable under Sections 329(3), 115(2), 74 and 109 of the Bharatiya Nyaya Sanhita, 2023 (BNS) registered with Police Station Gandarbal
- 2) As per the allegations made in the impugned FIR, on 12.06.2026 at about 6:30 p.m., when the complainant, Mohammad Rafiq Rather, alongwith his wife and daughter, went to cultivate his land falling under Khasra No.821 at Wusan, the petitioners trespassed into the land of the complainant with an intention to forcibly dispossess him. When the complainant objected to the

same, the petitioners became aggressive and attacked the complainant with farming implements. Petitioner Ghulam Nabi Rather, is alleged to have given a forceful blow with a cutter machine on the head of the complainant with an intention to cause his death, as a result of which he received serious injuries and started bleeding profusely. When daughter of the complainant tried to intervene in the matter, petitioner Gh. Mohammad Rather dragged her on the ground and tore apart her clothes, thereby outraged her modesty. When wife of the complainant raised alarm, the petitioners fled away from the spot after extending threats to the complainant.

3) The petitioners have challenged the impugned FIR on the grounds that there is a long-standing land dispute going on between the parties and the criminal proceedings have been initiated only with a view to convert a civil dispute into a criminal case. It has been further contended that complainant party is pressurizing the petitioners to settle the civil litigation at their terms. According to the petitioners the civil courts have consistently recognized their possession over the disputed land and, that the impugned FIR is a retaliatory measure to nullify the judicial order. It has been contended that the impugned FIR is nothing but a mala fide action on the part of the complainant party.

4) I have heard learned counsel for the parties and perused record of the case.

5) As is clear from the contents of the impugned FIR which have been narrated hereinbefore, cognizable offences are disclosed against the petitioners. In the impugned FIR it is specifically alleged that the complainant was attacked with a cutter machine by petitioner No.1 targeting his head which is a vital part of body. It is further alleged in the impugned FIR that this blow caused serious injuries to the complainant and he started bleeding profusely. There are also allegations that the daughter of the complainant was dragged and her clothes were torn apart by petitioner No.2. These allegations clearly disclose commission of cognizable offences.

6) The contention of the petitioners that the impugned FIR is a result of long standing land dispute between the parties may be correct, but most of the criminal actions owe their origin to underlying civil disputes. Merely, because there is a civil litigation going on between the parties with regard to the land on which the offence has been committed by the petitioners, does not go on to show that no offence has been committed, once there are specific allegations in the impugned FIR about commission of these offences by the petitioners. The issue, whether the allegations

made in the impugned FIR are true or the same have been fabricated on account of the previous enmity between the parties, has to be looked into and determined during the course of investigation of the case. This Court while exercising its powers under Section 528 BNSS cannot hold a mini-trial to determine the veracity of the defence put up by the petitioners.

7) Once the allegations made in the impugned FIR disclose commission of cognizable offences, it is the statutory duty of the Investigating Agency to undertake investigation of the case, and this Court cannot restrain the Investigating Agency from performing its statutory duties.

8) For the foregoing reasons, I do not find any merit in this petition. The same is dismissed.

(SANJAY DHAR)
JUDGE

SRINAGAR
22.07.2026
Sarveeda Nissar

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