

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

**CRM (M) No. 533/2026
CrlM No. 1250/2026**

Rafiq Ahmad Bhat & Ors.

... Petitioner(s)

**Through: -
Mr Adnan Fayaz, Advocate.**

V/s

Samiya Assad Khan

... Respondent(s)

CORAM:

HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE.

**(ORDER)
29.07.2026**

01. Heard learned Counsel appearing for the Petitioners.
02. The Petitioners have invoked the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [BNSS] for quashing the Complaint titled '**Samiya Assad Khan v. Rafiq Ahmad Bhat & Ors.**', bearing File No. 93931/2025, as also Order dated 5th of February, 2026 passed by the learned 3rd Additional Munsiff (JMIC), Srinagar [Trial Court].
03. The ground of challenge mainly revolves round the point that on the same set of allegations earlier FIR No. 11/2020 dated 26th of February, 2024 under Sections 498-A and 406 IPC was registered and the Petitioners were discharged, resultantly, the charge sheet was dismissed. Therefore, no second Complaint on the same set of allegations is maintainable.
04. The Petitioners have also questioned the legality of Order dated 5th of February, 2026 passed by the Trial Court, *inter alia*, on the ground that the cognizance taken by the Trial Court is barred by law on the same facts which were subject matter of the earlier charge sheet in which the Petitioners were discharged and the charge sheet was dismissed.

05. Admittedly, the Trial Court has decided to exercise its jurisdiction under Section 225 of the BNSS that empowers a Magistrate, on a complaint, to postpone the issue of process and either inquire into the case himself or direct an investigation by a Police Officer for the limited purpose of deciding whether there is sufficient ground for proceeding in the Complaint.

06. At this stage, there is absolute lack of *locus standi* of the proposed accused, therefore, cannot participate or adduce material in his defence.

07. An Order under Section 225 BNSS postponing process and directing a limited Police inquiry is interlocutory in nature. It does not finally determine any right of the proposed accused. Consequently, neither Revision nor a Petition under Section 528 BNSS is ordinarily maintainable at the instance of the proposed accused.

08. Although, Section 528 BNSS preserves the inherent power of the High Court to prevent abuse of process or to secure the ends of justice, the power is not to be exercised at the pre-process stage at the instance of a person who has no *locus*. The High Court will not covert itself into a forum for the proposed accused to pre-empt or derail the limited inquiry made only to assist the Magistrate in deciding whether process should be issued.

09. The right of the accused crystalizes only after process is issued under Section 227 BNSS. At that stage, a Petition under Section 528 BNSS for quashing the Complaint/ process becomes maintainable on the well settled parameters.

10. A Petition under Section 528 BNSS filed by the accused solely challenging the Magistrate's Order passed under Section 225 BNSS has to cross the hurdle of maintainability on two counts; first, *locus standi* and, second, pre-mature/ interlocutory nature of the Order. Once, the Magistrate has postponed the process seeking a report from the concerned Police, in that event, it would be too early to say as to the outcome of the report and also whether the Magistrate will proceed either under Section 226 BNSS or Section 227 BNSS.

11. Since, by virtue of the impugned Order dated 5th of February, 2026, the Magistrate has decided to proceed under Section 225 BNSS, therefore, the Petitioners have no *locus* to question such Order, as it is meant to assist the Magistrate in arriving at a decision, either to issue process or to dismiss the Complaint.

12. For the foregoing reasons, the present Petition is found to be pre-mature and thus held to be not maintainable. Accordingly, the same is **dismissed**, along with the connected CrlM.

SRINAGAR
July 29th, 2026
"TAHIR"



(SHAHZAD AZEEM)
JUDGE