

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

Reserved on: 14.07.2026

Pronounced on: 17.07.2026

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*Whether the operative part
or full judgment is
pronounced: **Full***

CRM(M) No.423/2023

c/w

CRM(M) No.306/2022

CRM(M) No.453/2023

DR. SYED WAJID ALI HAMDANI & ORS.

ZUBEIDA BEGUM & ANR.

DR. SHAHIDA HUSSAIN

...PETITIONER(S)/APPELLANT(S)

*Through: - Mr. Hakim Suhail Ishtiaq, Advocate (in CRM(M)
No.306/2022)*

*Mr. Hasnain Khawja, Advocate (for CRM(M)
Nos.423 & 453/2023)*

Vs.

UT OF J&K AND ANR.

...RESPONDENT(S)

Through: - Mr. Waseem Gull, Advocate.

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

JUDGMENT

1) By this common order, afore-titled three petitions challenging FIR No.198/2022 for offences under Section 420 and 506 of IPC registered with Police Station, Ganderbal, are proposed to be disposed of. CRM(M) No.423/2023 has been filed by petitioners Dr. Syed Wajid Ali Hamdani, Syed Iqbal Hussain Hamdani, Syed Aijaz Hussain Hamdani, Syed Arshad Hussain Hamdani and Dr.

CRM(M) No.423/2023 c/w

CRM(M) Nos.306/ 2022 & 453/2023

Kousar Jabeen, CRM(M) No.306/2022 has been filed by petitioners Zubeida Begum and Mumtaza Begum whereas CRM(M) No.453/2023 has been filed by petitioner Dr. Shahida Hussain

2) The impugned FIR has been registered on the basis of the directions passed by the learned Chief Judicial Magistrate, Ganderbal, on a complaint filed by respondent No.2/complainant. In the complaint, respondent No.2 alleged that she is daughter of late Dr. Agha Wajahat Hussain and is presently settled in UK. It is alleged that she is lawful heir of her father and is entitled to inherit land measuring 31 kanals situated at Busarbugh Ganderbal. According to the complainant, out of this land around 25.1 kanals of land has been illegally sold and transferred by the petitioners/accused, who happen to be brothers and sisters of her late father, including their children.

3) According to the complainant, her father had acquired the aforesaid land in terms of judgment dated 25.02.2004 passed by the Court, whereafter the land measuring 31 kanals situated at Busarbugh Ganderbal was mutated in the name of her father, which is clear from the revenue extracts. It has been alleged that SHO, Ganderbal, is in league with accused persons. She has further alleged that

upon enquiry from revenue officers of Ganderbal, it was revealed that only 5 kanals and 9 marlas are shown to be in the name of her father, which is a fraud on the face of it. It has been alleged that accused persons were holding high positions, including the position of Deputy Commissioner, and they have managed to usurp the land measuring 25.1 kanals at Busarbugh Ganderbal, which is worth more than Rs.30.00 crores.

4) It has been further alleged that the land measuring 31 Kanals situated at Busarbugh, Ganderbal, was actually gifted by her grandmother to her deceased father, against the wishes of her uncles and aunts, the accused persons, who challenged the same before District Judge, who vide judgment dated 25.02.2024, their claim was rejected, whereafter, the land in question was mutated in favour of her father.

5) It has been alleged that the complainant approached the authorities for redressal of her grievances as also the accused persons but without any success and ultimately, she came to know that the accused persons have intentionally and deliberately played a fraud with her. It has been further alleged that the accused persons are men of muscle and that they are harassing the complainant and

have also threatened that they will transfer the leftover property in their names.

6) The petitioner has challenged the impugned FIR and the proceedings emanating therefrom on the grounds that the dispute between them and the complainant is purely civil in nature, which has been given a criminal colour by the complainant. While giving the background facts of the case, the petitioners have submitted that there was a dispute between father of the complainant and the petitioners/their predecessor- in-interest, with regard to the land in question as the father of the complainant was claiming that the land has been gifted to him by his mother. It has been submitted that while the suit was pending between the parties, the petitioners/their predecessor-in-interest, arrived at some settlement and the land in question was mutated in favour of all the legal heirs according to law of inheritance. It has been submitted that after the demise of father of the complainant, she has started raising questions with regard to inheritance but during his lifetime, father of complainant never raised any objection.

7) I have heard learned counsel for the parties and perused record of the case including the Case Diary.

8) As is clear from the contents of the impugned FIR and the documents placed on record by the petitioners, there appears to be a dispute relating to inheritance of the property left behind by ancestors of the parties. While the complainant claims that entire 31 kanals of land left behind by her grandmother, was vested with her father by virtue of a gift deed, the petitioners/accused dispute this fact and claim that the land was inherited by them as per the law of inheritance. According to the complainant, the petitioners/their predecessor-in-interest, have usurped the share of land which had fallen to her father, in a fraudulent manner. Thus, the dispute between the parties appears to be essentially with regard to inheritance of ancestral property.

9) The question that falls for determination is whether in the face of the aforesaid nature of dispute between the parties, it would be open to a criminal court to set the law into motion at the instant of one party to the dispute against the other.

10) The Supreme Court in the case of **M/S Indian Oil Corporation vs. M/S NEPC India Ltd. &Ors (2006) 6 SCC 736**, while noticing its earlier judgments on the issue relating to exercise of jurisdiction under Section 482 of Cr.

P.C to quash the complaints and criminal proceedings, has observed as under:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few – Madhavrao Jiwaji Rao Scindia v. Sambhajirao Chandojirao Angre [1988 (1) SCC 692], State of Haryana vs. Bhajanlal [1992 Supp (1) SCC 335], Rupan Deol Bajaj vs. Kanwar Pal Singh Gill [1995 (6) SCC 194], Central Bureau of Investigation v. Duncans Agro Industries Ltd., [1996 (5) SCC 591], State of Bihar vs. Rajendra Agrawalla [1996 (8) SCC 164], Rajesh Bajaj v. State NCT of Delhi, [1999 (3) SCC 259], Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [2000 (3) SCC 269], Hridaya Ranjan Prasad Verma v. State of Bihar [2000 (4) SCC 168], M. Krishnan vs Vijay Kumar [2001 (8) SCC 645], and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [2005 (1) SCC 122]. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged.

If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under section 250 Cr.P.C., more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."

11) From the afore-quoted principles of law, it is clear that before deciding as to whether proceedings in a criminal complaint are to be quashed, the Court has to be satisfied that the subject matter involved in the complaint is purely a civil wrong and it has no criminal texture to it.

12) Adverting to the facts of the present case, it is not in dispute that the land, which is subject matter of the impugned FIR, belonged to the ancestors of the parties. While the complainant claims that her grandmother had gifted the said property to her father, the petitioners claim that there was a settlement arrived at between the parties during the pendency of the suit filed for challenging the gift deed, whereby they were permitted to take their share in the property as per the law of inheritance. The complainant places reliance upon the judgment of the civil court dated 25.02.2004 passed in the suit filed by father of the complainant, whereby he had challenged the action of his mother relating to revocation of the gift. It appears that petitioners Zubeida and Mumtaza Begum, the sisters of Dr. Wajahat Hussain, did not enter into compromise and the suit against them was directed to be proceeded further whereas other legal heirs of mother, Mst. Khatija Begum (the mother of the parties), entered into compromise with father of complainant. It also appears that vide order dated 01.08.2023, passed by Additional Deputy Commissioner, Ganderbal, the appeal of the complainant against mutation No.979 dated 12.06.2021, passed in respect of land which is subject matter of dispute between the parties, has been

dismissed and the said mutation order has been upheld. In the said order, it has been noted that the gift deed executed in favour of father of the complainant has been revoked and the revocation mutation stands entered in the revenue records.

13) In the face of aforesaid facts, it is clear that dispute between the parties is purely of civil nature and there is no element of criminality attached to it. The question whether co-sharers of the complainant were entitled to inherit the ancestral property, including 31 kanals of land situated at Busarbugh, Ganderbal, is a purely a dispute of civil nature. It was not open to the complainant to give it a criminal texture to it and lodge the impugned FIR against the petitioners.

14) The Supreme Court has, in the case of **Rajinder Singh Katoch vs. Chandigarh Admn. And others**, (2007) 10 SCC 69, observed that right of a co-sharer to enjoy the joint family property is a civil right. Such a right, if denied by the other co-sharers for one reason or the other, must be enforced by taking recourse to the remedies available under the civil laws. The Court went on to observe that criminal proceedings cannot be taken recourse to for enforcing such a civil right.

15) The Courts have time and again discouraged the tendency to settle matters of purely civil nature by setting into motion criminal proceedings. In this regard, it would be apt to quote the following observations of the Supreme Court in the case of **Mohammed Ibrahim and others v. State of Bihar and another**, (2009) 8 SCC 751:

“This Court has time and again drawn attention to the growing tendency of complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it, are not used for settling scores or to pressurise parties to settle civil disputes. But at the same, it should be noted that several disputes of a civil nature may also contain the ingredients of criminal offences and if so, will have to be tried as criminal offences, even if they also amount to civil disputes.”

16) Again, in **Randheer Singh v. The State of UP and others**, (2021) 4 RCR (Criminal) 496, the Supreme Court has held that the criminal proceedings should not be permitted to generate into weapons of harassment.

17) The facts emanating from the record, make it clear that the instant case is a classic example of respondent No.2/complainant trying to settle a purely civil dispute relating to inheritance of ancestral property by way of criminal proceedings. Thus, it is a fit case where this Court

should exercise its powers under Section 482 of Cr. P. C to prevent the abuse of process of law and to secure the ends of justice.

18) Accordingly, the petition is allowed and the impugned FIR No.198/2022 for offences under Section 420 and 506 of IPC registered with Police Station, Ganderbal, and the proceedings emanating there from, are quashed.

19) The Case Diary be returned to learned counsel for the respondents.

Srinagar
17.07.2026

“Bhat Altaf-Secretary”

Whether the **Judgment** is speaking:

Yes

Whether the **judgment** is reportable:

Yes



(Sanjay Dhar)
Judge