

S. No.93
Suppl.1

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

CRM(M) No.611/2026
CrIM(1411/2026)

KHALID WANI AND OTHERS

.....Petitioner(s)

Through:- Mr. Faisal Javied, Advocate

V/s

MANZOOR AHMAD BHAT

... ..Respondent(s)

Through : Mr.Mohd Rafi, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

12.08.2026

1. The petitioners through the medium of present petition have challenged order dated 30.07.2026 passed by learned Judicial Magistrate 1st Class (Sub Judge) Srinagar, whereby on a complaint filed by the respondent against the petitioners a direction has been issued to the SHO, Police Station Zadibal to register an FIR while exercising powers under Section 175(3) of BNSS.

2. Heard learned counsel for the petitioners and perused the record.

3. It appears that a complaint came to be filed by the respondent against the petitioners before the learned trial Magistrate alleging therein that he had advanced a sum of Rs.28 lacs (Rs.28,00,000/-) to the petitioners in connection with operating a business of land and the petitioners promised to share 50% of profit of the business, but no profits were shared by the

petitioners. It has been further alleged that on 20.09.2024 the petitioners executed an undertaking acknowledging the receipt of Rs.28,00,000/- and they also undertook to repay the said amount in four months. An amount of Rs.2,00,000/- was paid in cash to the respondent and in respect of balance amount of Rs.26,00,000/- five post dated cheques were issued by the petitioners, which were drawn on JK Bank Alamgari Bazar Branch, Srinagar. It has been alleged that all these cheques were dishonoured as it was reported by the Bank that the cheque leaves were not issued by the said branch. It has been alleged that these cheque leaves were fabricated, forged and fictitious.

4. On the basis of the aforesaid complaint, the learned Magistrate vide impugned order dated 30.07.2026 issued a direction to the Police for registration of FIR.

5. The petitioners have challenged the impugned order on the ground that transaction between the parties is purely of civil nature and it does not disclose commission of any offence. It has been contended that the respondent has already filed a suit for recovery under Order 37 of CPC against petitioner No.1, the drawer of the cheque, before the Civil Court, as such, it was not open to the learned trial Magistrate to issue a direction for registration of FIR which has resulted in conversion of a civil dispute into a criminal case. It has also been contended that in terms of Section 175(3) of BNSS a Magistrate has to make

inquiry himself and he cannot delegate this power to Police Officer, but in the instant case, the inquiry has been conducted by the Police.

6. Section 175(3) of BNSS empowers a Magistrate to order investigation into a cognizable case on the basis of an application made by a complainant in terms of Section 173(4) of BNSS, if the complainant fails to get the FIR registered from the Officer Incharge of a Police Station or the Superintendent of Police concerned. It is a settled law that once allegations made in a complaint disclose commission of cognizable offence, the Magistrate is duty bound to direct registration of a case and its investigation, if the Police has failed to exercise its power to register the case when a complainant approaches the said authority. Section 175(3) of BNSS provides for an inquiry as the Magistrate may think necessary before issuing an order of investigation and the Magistrate has also to take into consideration the submissions made by the Police officer. The provision nowhere mandates that the Magistrate has to make an inquiry himself. In fact, it is provided in Sub Section (3) of Section 175 of BNSS that the Magistrate has to take into consideration the submissions made by the Police officer, as also the inquiry which is made under the directions of the Magistrate. In appropriate cases the inquiry can also be made by the Police under the directions of the Magistrate and report of enquiry has to

be taken into account by the Magistrate while directing investigation into a cognizable case

7. Turning to the facts of the present case there are allegations in the complaint filed by the respondent against petitioner No.1 that he had issued cheques in his favour on cheque leaves which were not issued by the Bank from which the said cheque leaves were purported to have been issued. The said allegation clearly suggests the commission of offence of forgery of a valuable security, which is a cognizable offence. Besides this, issuance of cheque by a person on forged cheque leaves also discloses the offence of cheating. Both these offences are cognizable in nature. Once these offences were disclosed the Magistrate had no option but to direct investigation into the case.

8. For what has been discussed hereinbefore, I do not find any ground to interfere in the impugned order passed by the learned trial Magistrate. The petition lacks merit and is dismissed accordingly.

(SANJAY DHAR)
JUDGE

SRINAGAR
12.08.2026
Sarveeda Nissar

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