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Regular

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

CRM(M) 223/2019

RUMAISA NABI

..... Petitioner(s)

Through: Mr. Z A Qureshi, Sr. Advocate.
with Mr. Babar Bilal Malik,
Advocate.

V/s

ROUF MAJID NAQASH

..... Respondent(s)

Through: Mr. Sajad Ahmad Mir, Advocate.

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER (Oral)

06.08.2026

1. The petitioner, through the medium of present petition, has challenged complaint filed by the respondent against him under Section 156(3) of Cr.PC seeking a direction upon Incharge Crime Branch to investigate and register a case against him.
2. As per the contents of the impugned complaint which was filed by the respondent through his counsel before the learned Magistrate, the respondent had entered into

wedlock with petitioner twelve years back at Srinagar and out of the said wedlock, one male child was born. It has been alleged that a matrimonial discord had arisen between the parties which led to divorce in terms of judgment dated 16.10.2018 passed by Federal Court of Sharia, UAE. It has been alleged that as per the said judgment, the petitioner herein was found to be responsible for the matrimonial dispute to the extent of 70%. It has also been alleged that the Sharia Court had thoroughly discussed that one Rais Khan had illicit relations with the petitioner and that family of the petitioner is having criminal record and they are trying to implicate the respondent herein in false and frivolous case by demanding Rs. 2.00 Crore as ransom.

3. It has been further narrated that the petitioner herein lodged FIR with the Police Station, Woman Rambagh, Srinagar on 08.03.2018 but investigation in the said FIR was stayed by this Court on account of the fact that the allegations made in the FIR were false. It has been further stated that another complaint came to be filed by the

petitioner herein against the respondent alleging commission of offence under Section 406 of RPC but the said complaint was abandoned by the petitioner when the respondent filed objections and raised the contentions relating to of perjury and forgery against her. It is stated that a formal criminal complaint has been lodged by the respondent against the petitioner before the court of learned Judicial Magistrate 1st Class (1st Additional Munsiff) Srinagar.

4. After narrating the aforesaid background, the complainant/respondent has alleged that he has come to know that the petitioner herein has filed some false and frivolous complaint against him before the Crime Branch after failing in all her previous attempts. In the said complaint, she has levelled allegations regarding fraud and perjury of some Nikah Namah which is stated to have been used by the petitioner for securing visa for his job in Dubai some years back. It has been alleged that in connection with said complaint, the officers of the Crime Branch are harassing the relatives of the respondent herein

and they are being called to the Crime Branch. On this basis, the respondent has sought investigation into the case from the Crime Branch so that the petitioner herein is booked and punished for offences which she has committed.

5. Heard and considered.
6. A bare perusal of the contents of the impugned complaint would reveal that the grievance of the respondent/complainant is that some complaint has been filed by the petitioner before Crime Branch in which some verification is being conducted by the officers of the Crime Branch. The respondent/complainant has not sought investigation into any counter allegations from his end in respect of which a case could have been registered against the petitioner.
7. As per the report filed by the Crime Branch before the learned Magistrate, some complaint is stated to have been filed by the petitioner against the respondent which is being verified by it. In the report, it has been further

submitted that even the assertions made by the respondent/complainant are being verified.

8. As already stated, there are no allegations made by the respondent/complainant against the petitioner that would constitute a criminal offence. The only grievance that has been projected by the respondent in the impugned complaint is that on the basis of the complaint lodged by the petitioner, his relatives are being harassed by the official of the Crime Branch. He has sought a proper and fair probe into the allegations levelled by the petitioner without causing harassment to him and his relatives. This does not disclose commission of any offence much less a cognizable offence against the petitioner. Hence it was not open to the learned Magistrate to forward the impugned complaint to the Crime Branch while exercising his power under Section 156(3) of the Cr.PC.

9. There is yet another aspect of the matter which is required to be noticed. The dispute between the parties appears to be a matrimonial dispute. The Crime Branch has been established for investigation of certain specific offense. Its

jurisdiction is to investigate certain types of offences as laid down in SRO 202 of 1999 dated 03.06.1999 as amended vide SO 232 dated 9th May 2022. The type of allegations made by the respondent in the impugned complaint cannot be taken up for investigation by the Crime Branch. On this ground also, it was not open to the learned Magistrate to forward the complaint filed by the respondent to the Crime Branch for necessary action.

10. On top of it, there is no averment in the complaint made by the respondent that he had approached the Police Station concerned or the SSP before approaching the learned Magistrate calling upon him to exercise his jurisdiction under Section 156(3) of the Cr.PC. In the face of legal position laid down by Supreme Court in case titled *Priyanka Srivastava and another Vs. State of UP and Others* reported in (2015) 6 SCC 287, it was not open to the learned Magistrate to forward the complaint to the Crime Branch for necessary action, without insisting upon the compliance of the provisions contained in Section 154(1) and 154(3) of the Cr.PC.

11. For all the aforestated reasons, the petition is allowed and the complaint filed by the respondent against the petitioner as also the proceedings initiated thereon are quashed.

(Sanjay Dhar)
Judge

SRINAGAR

06.08.2026

Aasif

Whether the order is speaking Yes/No

Whether the order is reportable Yes/No

