

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

...
CRM(M) no.761/2026
CrlM no.1728/2026
CrlM no.1729/2026

1. Ghulam Mohd. Parray @ Gul Parray aged 80 years S/o Qadir Parray
 2. Mubeena Bano aged 55 years D/o Gul Mohammad Parray
 3. Taseema Jan aged 22 years D/o Fayaz Ahmed Mir
 4. Fayaz Ahmad Parray aged 55 years S/o Ghul Muhammad Parray
- All residents of Laripura, Ahangar Mohalla, Tehsil Pahalgam District Anantnag

.....Petitioner(s)

Through: Mr. Mubashir Rabani, Advocate

Versus

1. Union Territory of J&K thorough Station House Officer Police Station Pahalgam District Anantnag
2. Afrooz Ahmad Sheikh S/o Ab. Salam Sheikh R/o Laripura Ahangar Mohalla Tehsil Pahalgam District Anantnag

.....Respondent(s)

Through:

CORAM:

HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE

ORDER
19.09.2026

1. Petitioners claim that there is a long-standing family dispute between them and respondent no.2 concerning immovable property, over which civil proceedings are pending before the civil court, in which an order of status quo has already been passed. Petitioners also maintain that they have obtained permission from the Pahalgam Development Authority for construction and, pursuant thereto, construction is being undertaken. Respondent no.2 filed a false complaint before the SHO, Police Station Pahalgam, and got a false case registered against them in

the shape of FIR no.62/2026, for commission of offences punishable under Sections 191(2), 125(A), 74 and 115(1) of the Bharatiya Nyaya Sanhita, 2023 (for short “BNS”), in which investigation has culminated in presentation of charge-sheet. It is the specific case of petitioners that criminal prosecution is founded on a dispute which is civil in nature, and that the alleged violation of status quo order is the foundation on which aforesaid FIR has been registered.

2. Learned counsel for petitioners has argued that essential ingredients of offences are not made out even if the allegations in the FIR are taken at their face value.
3. After learned counsel for the petitioners was heard for some time, he was confronted with the position that mere pendency of civil proceedings would not operate as a bar to recourse being taken to criminal proceedings, provided such proceedings are founded on a bona fide basis. He was also confronted with the fact that the FIR came to be registered on 27.06.2026 and that the same was not questioned at any stage; neither when the investigation upon its registration was set into motion, nor till the filing of the charge-sheet, meaning thereby that the alleged incident which gave rise to the lodging of the aforesaid FIR stands investigated and has culminated in the presentation of the charge-sheet. He was further confronted with the medical opinion on record, which reveals that the complainant had not only been assaulted but had also sustained injuries, which injuries cannot possibly be the outcome of a civil cause.
4. Learned counsel for the petitioners, during the course of hearing, was fair enough to concede that nowhere in the petition has he raised any

issue questioning the fairness of the investigation. He has, however, harped only upon the issue that a civil suit is pending, in which a status quo order has been passed.

5. The status quo order, on which the petitioners are relying, was passed on 24.04.2024, whereas the incident giving rise to lodging of FIR took place on 27.06.2026 at 7:30 p.m. The existence of the status quo order, directing parties to maintain status quo on the spot, does not vouchsafe to petitioners the right to take law into their own hands, either to take possession of the property or to dispossess the other party. Inasmuch as the investigation has concluded in the charge-sheet, whatever defence may be available to petitioners can well be raised before the Trial Court, which is seized of the matter. As of now, nothing has been brought to the notice of this Court to suggest that the investigation is unfair or has been conducted to the disadvantage of the petitioners.
6. The law on the exercise of the powers of the High Court under Section 482 Cr.P.C., which stands in *pari materia* with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity “BNSS”), for quashing of an FIR, the parameters governing exercise of such powers, and the scope and ambit of the power of the High Court thereunder, are required to be noticed.
7. The Supreme Court in the case of ***R. P. Kapur v. State of Punjab, AIR 1960 SC 866***, while dealing with the inherent powers of the High Court, observed and held that inherent jurisdiction of High Court can be exercised to quash proceedings in a proper case, either to prevent abuse of the process of any court or otherwise to secure the ends of justice and that ordinarily the criminal proceedings instituted against an

accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings. After so observing, the Supreme Court carved out certain exceptions, which are as under:

“(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.”

8. The Supreme Court has observed and held that the inherent powers under Section 482 Cr.P.C. do not confer an arbitrary jurisdiction on the High Court to act according to the whim or caprice; that the statutory power has to be exercised sparingly with the circumspection and in the rarest of rare cases.
9. The Supreme Court in the celebrated case of ***State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335***, considered the scope and ambit of Section 482 Cr.P.C. and Article 226 of the Constitution of India in the backdrop of quashing of proceedings in a

criminal investigation. After noticing the various earlier pronouncements, the Supreme Court laid down certain categories of cases, by way of illustration, wherein the power under Section 482 Cr.P.C. can be exercised to prevent abuse of the process of the Court or to secure the ends of justice. Paragraph 102, which enumerates seven categories of cases wherein the power under Section 482 Cr.P.C. can be exercised, is reproduced as follows:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or 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 a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific

provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. When the case set up by the petitioners and the grounds taken in the instant petition are examined in the backdrop of the principles laid down by the Supreme Court in the case of ***Bhajan Lal*** (supra), the same do not fall within any of the categories adumbrated in ***Bhajan Lal*** (supra); and, as a corollary thereof, no case is made out for indulgence and exercise of the inherent powers under and in terms of the provisions of Section 528 BNSS.

11. Consequently, the petition is found to be devoid of merit and is **dismissed.**

Srinagar

19.09.2026

Ajaz Ahmad, Secy



(Sanjay Parihar)
Judge

Whether approved for reporting? Yes