

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

CRM(M) 458/2022

ABDUL MAJEED MIR AND ORS

...Petitioner(s)/appellant(s)

Through: Mr. Shabir Shah, Advocate

Vs.

UNION TERRITORY THROUGH POLICE
STATION KUPWARA AND ORS

...Respondent(s)

Through: Mr. S. A. Makroo, Sr. Advocate with
Mr. Danish Yousuf, Advocate for R 3
Mr. Faheem Nissar Shah, GA for R 1 & 2

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
18-08-2026

CRM(M) No. 458/2022

1. The petitioners, through the medium of present petition, have challenged FIR No. 37/2022 for offences under Section 420 & 506 of Indian Penal Code registered with Police Station Kupwara.
2. As per the allegations made in the impugned FIR, a complaint came to be lodged by respondent No. 3 against the petitioners on 22-02-2022 before the police, alleging therein that in November 2021, when the petitioners were residing at Peer Bagh Srinagar, they represented to the complainant that they are in the business of sale and purchase of land. It has been alleged that the petitioners, by practicing deception upon the complainant, offered to sell land measuring 10 marlas for a consideration of Rs. 25 lakhs, and in this connection the complainant paid an advance amount of Rs. 3 lakhs to petitioner No. 2 in his bank account under three different banking transactions. Besides this, the complainant paid an amount of Rs. 50,000/- in cash to petitioner No. 1. It has been alleged that after few days, the complainant approached the petitioners in connection with the sale transaction of the land, but when he reached there, the petitioners had fled away from that place. After some time, the complainant came to know that it

is a pattern for the petitioners to collect money from people under deception. It was further alleged that when the complainant came to know about the whereabouts of the petitioners, he approached them, but instead of returning the money, they threatened and intimidated him.

3. The petitioners have challenged the impugned FIR primarily on the ground that the transaction between them and the complainant is purely of civil nature, and it has been unnecessarily given a criminal color by the complainant, which is impermissible in law. It has been contended that a bare perusal of the contents of impugned FIR would reveal that the ingredients of offences under section 420 IPC are not made out, inasmuch as there has been no deception on part of the petitioners at the inception of the transaction, which is an essential ingredient of the offence under section 420 of the IPC.

4. I have heard learned counsel for the parties and perused the record of the case.

5. It is a settled law that High Court, while exercising its power under Section 482 of Cr.P.C to quash a criminal complaint or an FIR, has to exercise its jurisdiction sparingly and with circumspection, particularly at the initial stage. Unless it is shown that the allegations made in the impugned FIR/complaint do not constitute a cognizable offense or that the FIR/complaint has been lodged with a view to wreak vengeance upon the accused on account of a private or personal grudge between the accused and the complainant, it would not be open to the High Court to quash the complaint/FIR. It is equally well-settled principle of law that the High Court would be justified in exercising its jurisdiction under Section 482 of Cr.P.C if it is found that the complainant has given criminal color to a purely civil dispute.

6. Turning to the facts of the present case, it is alleged in the impugned FIR that petitioners deceitfully represented to the complainant that they intend to sell a plot of land measuring 10 marlas for a sum of Rs. 25 lakhs. This representation made by the petitioners induced the complainant to advance a sum of Rs. 3,50,000/- to the petitioners and there is material on record to support this assertion. It is alleged in the impugned FIR that the petitioners keep on changing their locations and they habitually defraud and cheat innocent people. The assertion of the complainant that petitioners keep

on changing their locations so as to avoid repayment of the money, *prima facie* shows their conduct from which it can be inferred that they were having fraudulent or deceitful intention even at the time they made representation to the complainant which induced him to part with Rs. 3,50,000/-. Thus, the allegations made in the impugned FIR clearly disclose commission of cognizable offences defined under Section 415 of IPC.

7. It is true that complainant has a remedy of filing a civil suit against the petitioners, seeking recovery of the amount advanced by him to the petitioners, but it is equally settled principle of law that a particular set of facts can give rise to both civil as well as criminal consequences. In the present case, having regard to the nature of the allegations made in the impugned FIR, it can safely be stated that commission of cognizable offenses stands disclosed. Hence, it is the duty and obligation of the investigating agency to undertake investigation of the case. This Court cannot interdict the investigating agency from performing its statutory duty in a case where the FIR discloses commission of cognizable offenses.

8. For the foregoing reasons, I do not find any merit in the petition. The same is dismissed.

9. Interim order dated 21.10.2022 shall stand vacated.

CRM(M) No. 443/2022

None for the petitioners.

Await appearance of petitioners.

This petition be de-linked and listed separately on 30th of September 2026, for awaiting appearance of the petitioners.

(SANJAY DHAR)
JUDGE

SRINAGAR
18-08-2026
Aamir