

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

**CRM(M) No. 805/2021
CrIM No. 2281/2021**

**Mohammad Amin Khan, aged 57 years
S/O Said Mohammad Khan,
R/O Village Tope-Thera, Tehsil Mendhar,
District Poonch**

.....Petitioner(s)

Through :- Mr. Murtaza Khan, Advocate

v/s

- 1. UT of J&K through SHO P/S Reasi.**
- 2. 'X' D/O Mohammad Shafi Dedad,
R/O Thanole, Tehsil Thakrakote, Reasi**

.....Respondent(s)

Through :- Mr. Sumeet Bhatia, GA
Insp. Chaman Lal Korka, SHO P/S Reasi
present in person alongwith CD file.

**Bail App No. 391/2021
CrIM No. 197/2022
CrIM No. 2280/2021
CrIM No. 73/2022**

**Mohammad Amin Khan, aged 57 years
S/O Said Mohammad Khan,
R/O Village Tope-Thera, Tehsil Mendhar,
District Poonch.**

....Petitioner(s)

Through:- Mr. Murtaza Khan, Advocate

V/s

UT of J&K through SHO P/S Reasi

....Respondent(s)

Through:- Mr. Sumeet Bhatia, GA

**Bail App No. 32/2022
CrIM No. 155/2022**

**Razia Begum, aged 42 years,
D/O Ghulam Qadir, R/O Village Thanole,
Tehsil Thakrakote, District Reasi**

....Petitioner(s)

Through:- Mr. Murtaza Khan, Advocate

V/s

UT of J&K through SHO P/S Reasi

....Respondent(s)

Through:- Mr. Sumeet Bhatia, GA

**Bail App No. 79/2022
CrIM No. 298/2022**

**Nazir Ahmed aged 46 years
S/O Miran Bakash, R/O Village Thanole,
Tehsil Thakrakote, District Reasi.**

....Petitioner(s)

Through:- Mr. Murtaza Khan, Advocate

v/s

UT of J&K through SHO P/S Reasi

....Respondent(s)

Through:- Mr. Sumeet Bhatia, GA

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

26.02.2024

CRM(M) No. 805/2021

1. This petition under Section 482 CrPC has been moved by the petitioner Mohammed Amin Khan seeking to quash the FIR No. 229/2021, registered with Police Station, Reasi, alleging that the same has been lodged falsely implicating the petitioner and is an abuse of the judicial process.
2. It has been pleaded that on 29.10.2020, the complainant-X (to hide her identity) eloped with her cousin Nissar Hussain to reach Shopian in Kashmir, where she was married to his younger brother, namely, Ghulam Hussain and back home, a missing report to this effect was lodged by father of the prosecutrix at Police Station Arnas on 05.11.2020; that on 11.12.2020, she was recovered and a case was registered vide FIR No. 05/2021 under section 376 IPC at Police Station, Arnas against said Nissar Hussain; that on 16.01.2021, statement of the complainant-prosecutrix was

recorded u/s 164-A CrPC wherein she alleged that she was kidnapped by Nissar and taken to Shopian on 29.10.2020 where she was forcibly married to Ghulam Hussain. She also alleged that both her cousins had raped her, as such, both the brothers Ghulam Hussain and Nissar Hussain were arrested and detained in District Jail, Reasi; that on 02.02.2021, the complainant contracted second marriage with one Mohammed Farid, however, when accused Nissar Hussain and Ghulam Hussain were bailed out, the complainant-prosecutrix claiming the first marriage, reverted to her first husband Ghulam Hussain and disowned the second husband Mohammed Farid.

3. It has been alleged that two women Jamila and Razia from her in-laws, asked complainant-prosecutrix to return the jewellery and gifts she had received at the time of her marriage and the matter took an ugly turn when the complainant and her family sought the help of a Cop namely Gulzar, who was posted as PSO to the SSP Reasi, who started harassing the two sisters to force them to give up their claims; that on 06.07.2021, Razia filed a complaint against HC Gulzar Ahmed before IGP, Jammu who referred her complaint to SSP, Reasi, however, due to Gulzar's undue influence, it was rendered ineffective and redundant and on 18.08.2021, in execution of the plan, the complainant appeared in the Court of learned Sessions Judge, Reasi, where she retracted from the FIR and her 164-A statement to exonerate both the accused and she at the instance of HC Gulzar Ahmed blamed Razia for having instigated her to lodge the false FIR; that in view of the inaction on Razia's earlier complaint to the IGP Jammu, she filed another complaint on 07.10.2021 and as its counterblast, on 16.11.2021 a complaint was filed based on which, the impugned FIR No. 229/2021 was

registered with Police Station Reasi for the commission of offences punishable under sections 366, 376, 109 IPC levelling malicious, vague and improbable accusations of having committed kidnapping and rape against the petitioner on or before 31.01.2021.

4. The petitioner having been aggrieved of the impugned FIR assailed the same on the grounds that the allegations made in the FIR are false, fabricated and baseless and are intended only to harass the petitioner; that the allegations are so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioner and finally it was prayed that the impugned FIR be quashed to secure the ends of justice.
5. Pursuant to notice, the official respondent did not file response to the petition, however, moved an application for placing on record the statement of the prosecutrix recorded under section 164 CrPC before the Court of learned Judicial Magistrate (Munsiff), Reasi on 30.11.2021 wherein she had made incriminating statement against all the accused including the petitioner.
6. Respondent No.2, who is the complainant-prosecutrix also filed objections to the application pleading in Para-F that her family with the help of a sympathizer namely HC Gulzar, who was posted as PSO to the SSP Reasi, instead of sorting out amicably, resorted to use pressure tactics against Fareed and his supporters to bring them to their knees to get the divorce without paying a penny and in the process, he extracted a complaint from the answering respondent and got an exparte inquiry conducted by Dy SP(HQ) Reasi and based on this enquiry, the impugned FIR was registered against five persons and that her statement was also recorded before

learned Judicial Magistrate (Munsiff) Reasi on 30.11.2021 under undue pressure and her indoctrination by the family and the police; that haunted by nightmare and an immense sense of moral degradation and after pondering the issue she again approached SHO and IO concerned to get her statement recorded afresh, so as to state the truth and relieve herself of the immense burden but her plea was refused and finally it was prayed by her that the petition moved by the petitioner be accepted and the impugned FIR be quashed in the interest of justice.

7. The respondent No.2-‘X’, on being duly identified by Mr. Qayoom Choudhary Advocate also made a statement recorded by the learned Registrar Judicial, wherein she reiterated the assertions made in her reply.

Her statement for the convenience is reproduced as under:

“I am a poor and illiterate lady and a written complaint was taken from me and exparte enquiry was conducted by Dy SP (HQ), Reasi whose report led to the registration of FIR No. 229/2021 against five accused person under sections 366, 376 & 109 IPC. I further submit that said complaint was extracted from me under undue pressure and indoctrination by my family and Police. The accused persons in the FIR have not committed any offence with me as stated in the FIR. I was under intolerable and unbearable stress and depression due to this complaint/FIR extracted from me and subsequent statement against the accused persons before the learned Magistrate. Now, I have been married and living a happy married life. Furthermore, I have no grievance against the persons implicated in FIR No. 229/2021 and have no objection in case Hon’ble Court quashes the FIR No. 229/2021 registered at Police Station, Reasi. The averments in my response to the case are correct and I vouch them.”

8. Since the prosecutrix-complainant in her response as well as in her statement recorded before this Court resiled from the complaint which she was claimed to have made for registration of the case vide impugned FIR, to allow the further investigation and trial of the petitioner as an accused, shall be a farce trial not resulting into conviction. Therefore, in view of the settled legal position, the impugned FIR, in the considered opinion of this

Court, being mis-use of the legal process is required to be quashed.

Accordingly, the impugned FIR is quashed qua the petitioner/accused.

9. **Disposed of** along with pending application(s).

Bail App Nos. 391/2021, 32/2022 & 79/2022

10. As the main petition **CRM (M) No. 805/2021** under Section 482 CrPC filed by one of the accused Mohammed Amin Khan has been allowed, wherein the prosecutrix-complainant has not only in her response to the petition but also made a statement that the petitioner as well as other accused were not involved in the commission of any offence against her, therefore, in view of the statement of the complainant-prosecutrix, these applications are **allowed**. The interim bails granted by this Court in all the Bail Applications bearing **Bail App Nos. 391/2021, 32/2022 & 79/2022** vide orders dated **18.02.2022, 25.02.2022 and 04.03.2022** are made absolute on the same terms and conditions as have been laid down in the aforesaid applications.
11. All the Bail Applications along with pending application(s) are, accordingly, **disposed of**, as granted.

(M A Chowdhary)
Judge

JAMMU
26.02.2024
Vijay

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