

Sr. No.

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

Case: CRM(M) No. 786/2022

Reserved on: 28.07.2025

Pronounced on: 01.09.2025

Nanak Chand and ors.

....Petitioners

Through :- Mr. Rohan Nanda, Advocate

V/s

UT of J&K &Anr.

....Respondents

Through: Mr. Bhanu Jasrotia, GA for R-1.

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

1. Petitioners have invoked inherent jurisdiction of this Court, under Section 482 Cr.P.C. for quashing FIR No. 0208/2022, under Sections 457, 382, 354, 427, 323 and 506 IPC registered with Police Station, Nowshera, primarily on the ground that a dispute purely of civil nature is sought to be given a criminal texture, which is impermissible in law.
2. Before a closer look at the grounds urged in the memo of petition, it shall be apt to have an overview of the backgrounds facts.
3. On 06.09.2022, the private respondent lodged a written complaint at Police Post, Lamberi stating, *inter alia* that during the intervening night of 4/5.09.2022, she alongwith her husband locked the house and went to her maternal house. Next morning, she came back and saw that the petitioners-accused had broken the lock of her house. The

complainant further alleged that when she asked the petitioners about their presence in her house, they started beating her, torned her clothes, held her breasts and stole some gold and cash from her house and fled away. On the receipt of this report, impugned FIR came to be registered.

4. It is contention of the petitioners that petitioner No. 1 is an old man of 85 years of age. He has three sons. The eldest son is husband of private respondent No. 2-the complainant. Petitioners No. 2 and 3 are sons of petitioner No. 1 and brother-in-law of respondent No. 2. Petitioner No. 2 is serving as a Constable in CRPF and is posted at Jharkhand, Tata Nagar, Jamshedpur for two years. Petitioner No. 3 is in tourism business and is settled in Manali with his in-laws.

5. It is contention of the petitioners that husband of the private respondent asked his father-petitioner No. 1 to execute a power of attorney in his favour so that he could pursue the civil case titled 'Ghani Sham v. Nanak Chand and others' pending in the Court of Sub Judge, Nowshera. Petitioner No. 1 signed some documents and the said power of attorney was registered before learned Sub Judge, Nowshera on 31.08.2018. It is alleged by the petitioners that husband of the private respondent by misleading and misrepresenting his father-petitioner No.1, got a will deed executed and registered before Sub Registrar, Nowshera in his favour on the same day along with the said power of attorney, which was without the knowledge of his father, the petitioner No.1. According to the petitioners, petitioner No.1 signed the said documents under the impression that it was a power of attorney. It is contended that petitioner No. 1 immediately, after he came to know about the misdeed,

cancelled both the will deed and general power of attorney executed in favour of husband of the private respondent. The cancellation of both the deeds was registered before Sub Judge, Nowshera on 06.09.2018.

6. It is further case of the petitioners that since petitioner No. 1 was shocked and had lost faith in his son, he disinherited his son-husband of the private respondent, by executing a deed of disinheritance and got it registered on the same day i.e. 06.09.2018. According to the petitioners, the cancellation of will deed, power of attorney and execution of disinheritance deed, agitated the private respondent and her husband, due to which, the private respondent and her husband filed a frivolous complaint against the petitioners under Domestic Violence Act on 18.09.2018, which later came to be disposed of as compromised, vide order dated 11.09.2021 passed in Lok Adalat, Nowshwera.

7. It is alleged by the petitioners that after the aforesaid compromise, private respondent, her husband-Anil Kumar and her father-Ramesh Chander trespassed into the house of petitioner No. 1, beat the petitioners, due to which, they were injured and FIR No. 12 of 2022 came to be registered against the private respondent, her husband and her father. It is also contended that on 02.03.2022 a suit for declaration came to be filed by the husband of private respondent against the petitioners in the court of Sub Judge, Nowshera for annulment of the aforesaid disinheritance deed dated 06.09.2018.

8. It is further case of the petitioners that petitioner No. 2 came to his house on paternity leave w.e.f. 13.08.2022 to 10.10.2022 and petitioner No. 3 had also come from Manali, for the celebration. Petitioner No. 1

and his wife, filed a complaint against the private respondent, her husband and father on 03.09.2022 before Tehsil Legal Services Authority, Nowshera, whereby notice dated 03.09.2022 came to be issued to them. This notice, according to the petitioners, enraged the private respondent, her husband and father and they shifted to the parental house of respondent No. 2.

9. It is further alleged by the petitioners that on 05.09.2022, respondent No. 2, her husband and father again entered the house of petitioner No.1. They, it is alleged, abused petitioner No. 1, his wife, hit petitioner No. 1, and his wife and tried to throw them out of their house and take forcible possession. The petitioners, it is stated, approached the concerned police, but no action was taken. However, respondent No. 2, on 06.09.2022, lodged a complaint against the petitioners, on the basis of which, impugned FIR came to be registered, which, according to the petitioners, has been lodged by the complainant to implicate petitioners No.2 and 3, so that petitioner No. 1 is pressurized to concede the demands of private respondent and her husband.

10. It is also alleged by the petitioners that again on 17.09.2022, the private respondent, her husband and father, attacked wife of petitioner No. 1, due to which, she got injured and was shifted to Government Sub District Hospital, Sunderbani, wherefrom she was referred to Government Medical College and Hospital (GMC&H) Jammu. They approached the official respondent for registration of FIR, but of no avail.

11. Petitioners are aggrieved of the impugned FIR *inter alia* on the ground that veiled object of the impugned FIR is to implicate petitioners 2 and 3 in a false case and coerce petitioner No. 1 to concede the illegal demands of the private respondent and her husband. According to the petitioners, the allegations made in the impugned FIR are so absurd and inherently improbable, on the basis of which, no prudent person can reach a just conclusion that there is sufficient ground for proceeding against them.

12. The plea has been opposed by the official respondent primarily on the ground that investigation so far conducted *prima facie* discloses the commission of cognizable offences against the petitioners.

13. Private respondent did not choose to appear despite service.

14. Heard learned counsels for the parties and perused the record.

15. Mr. Rohan Nanda, learned counsel for the petitioners has relied upon **Salib @ Shalu @ Salim v. State of UP & ors.; 2023 SCC Online SC 947** to reiterate the grounds urged in the memo of petition. Learned counsel for the petitioners has vehemently argued that if the contents of the FIR and the documents annexed with the petition are closely scrutinized, it is evident that impugned FIR has been lodged by the private respondent to wreak vengeance against the petitioners and allegations contained in the FIR are too absurd to *prima facie* constitute the ingredients of any offence.

16. *Per contra* learned Government Counsel has argued that scope of interference of this Court, in exercise of inherent jurisdiction is limited

and the disputed issues raised by the petitioners can be gone into and decided in a full dressed trial only.

17. The inherent jurisdiction of the High Court, under Section 482 Cr.P.C., now 528 BNSS, no doubt, is broad enough to prevent the abuse of the process of any court or otherwise to secure the ends of justice or to prevent the miscarriage of justice, however, it is well defined and cannot be exercised in an arbitrary fashion. It is by far crystallized that High Court can exercise its inherent jurisdiction only in cases where no legal remedy is available. The very plentitude of the extraordinary or inherent power requires greater caution in its exercise and Court must be careful to ensure that its pronouncements are based on sound principles of law. The High Court, while exercising inherent power cannot form a *prima facie* opinion, in a case where generally the facts are disputed, incomplete and hazy, more so, when the evidence is yet to be collected, and the issues involved, factual or legal, are of such a magnitude, which cannot be seen or analyzed in their true perspective without sufficient material.

18. Hon'ble Supreme Court in **State of Haryana and ors. v. Ch. Bhajan Lal and others; 1992 Supp (1) SCC 335**, set out the following categories, by way of illustration, which justifies the exercise of inherent power by the High Court, either to prevent the abuse of the process of any court or otherwise to secure the ends of justice:

- “(a) 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;
- (b) where the allegations in the First Information Report and other materials, if any, accompanying

the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

- (c) where the uncontroverted allegations made in the F.I.R. 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;
- (d) where, the allegations in the F.I.R. 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;
- (e) 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;
- (f) 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; and
- (g) 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.”

19. The Apex Court in **State of Karnataka v. L. Muniswamy & others; (1977) 2 SCC 699** has observed that inherent jurisdiction of the High Court is saved to achieve a salutary public purpose that a court proceeding ought not be permitted to degenerate into a weapon of harassment or persecution.

20. The aforementioned illustrative guidelines, set out in **Bhajan Lal** further came to be explained and expanded by the Apex Court in a recent pronouncement in **Salib @ Shalu @ Salim** (Supra), relied by Mr. Nanda, learned counsel for the petitioners. It was held that if an accused

invokes the inherent power or extraordinary jurisdiction of the High Court, for quashing an FIR or a criminal proceeding on the ground that they are manifestly instituted with the ulterior motive to wreak vengeance, in such circumstances, courts owe a duty to analyze the FIR or a complaint with due care and a little more closely.

21. Relevant excerpt of the judgment captured in para 26 is extracted below, for the ease of reference:

“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

(Emphasis supplied)

22. If the case on hand is critically examined and analyzed, with the aforesaid principles of law, enunciated by Hon'ble Supreme Court, there is no doubt, that impugned FIR has been lodged by the private respondent, at the behest of her husband, with an ulterior motive to wreak vengeance against the disinheritance of her husband by his father, petitioner No.1. Even the allegations contained in the impugned FIR are so absurd and inherently improbable that no prudent person can say that there is ground for proceeding against the petitioners.

23. The complaint is that the private respondent locked her house and went to her maternal house with her husband. The allegation is that next morning, they came back and saw the petitioners breaking open the lock of their house. The complainant goes on to allege that when she asked the petitioners about their presence in her house, they started beating her, torned her clothes, held her breasts and stole away gold and cash.

24. Be it noted, that petitioner No. 1-Nanak Chand is 85 years old man, petitioners No. 2 and 3 are his younger sons and husband of the complainant is his eldest son. The complainant/private respondent is daughter-in-law of petitioner No. 1. Allegations of the private respondent/complainant that his 85 years old father-in-law alongwith his sons, petitioners No. 2 and 3, assaulted her, torned her clothes, outraged her modesty and stole away gold and cash from her house in the broad day light, in the very presence of his three sons, are not only absurd and inherently improbable, but it is manifest that these allegations are attended with malice and instituted to wreak vengeance.

25. The investigating agency, during investigation, besides complainant, has examined PWs Parveen Akhter, Upinderjeet, and Pritam Dass. The complainant has made an endeavour in her statement under Section 161 Cr.P.C., to support her complaint, by stating that petitioners broke the cameras, abused her, insulted her and took away an amount of Rs. 2.5 lacs and ornaments. However, no other witness, during investigation, has stated about the theft of cash or ornaments, from the house of the complainant nor about outraging modesty of the complainant.

26. Be that as it may, a perusal of the documents annexed with the petition would indicate that petitioner No. 1 executed a power of attorney in favour of the husband of private respondent on 03.08.2018, which later came to be cancelled by him on 06.09.2018. There is also cancellation of will deed on the same day by petitioner No.1. Petitioner No. 1 also disinherited his son, husband of private respondent, on the same day on 06.09.2018. Copy of the civil suit filed by husband of the complainant, for annulment of disinheritance deed dated 06.09.2018, is also placed on the record.

27. *Ordinarily*, the statutory power of investigation, vested in the police agency cannot be interfered with and investigation of a case cannot be scuttled at the threshold by the High Court in exercise of inherent jurisdiction. Court can neither act as an investigating agency, in any situation, while exercising inherent jurisdiction, nor embark upon an enquiry or a mini trial as to the genuineness or otherwise of the allegations while exercising this power, under the Code. This

extraordinary or inherent jurisdiction to prevent the abuse of the process of any court or to secure the ends of justice, cannot be stretched to cut down the normal procedures of investigation, enquiry or trial. It cannot be exercised to stifle a legitimate investigation or terminate an authentic trial at the threshold.

28. It is, however, a matter of common experience that taking a cue from the guidelines or exposition of law by the Courts from time to time, unscrupulous litigants and skilful lawyers would design a complaint in a fashion to create an illusion of the existence of the ingredients to constitute the alleged offence. A cleverly drafted complaint will ensure to disclose the commission of a cognizable offence, when in reality, the underlying facts do not support. An attempt can be made to circumvent legal barriers by creatively phrasing the facts and avoid mentioning the actual background facts. A civil dispute may be camouflaged and given a criminal texture with a veiled object of persecution rather than prosecution of an accused. In such circumstances, it is the duty of the court to prevent the proliferation of baseless litigation at the earliest available opportunity. It can be achieved only by way of a holistic reading and interpretation of the pleadings in entirety, not in fragments, to understand the underlying nature of the case. The Court is required to scrutinize the allegations contained in the FIR or the complaint to ascertain if it genuinely discloses the commission of cognizable offence or not. The Court, in the circumstances, is obliged to focus on the substance of the allegations rather than the form to ensure that deft drafting does not allow the parties to circumvent the law.

29. The case on hand is an unfortunate family feud amongst an 85 years old father, his son and daughter-in-law. There are multiple allegations and counter allegations, FIRs and complaints amongst them. However, if contents of the impugned FIR are carefully glanced over, in the light of attending circumstances, emerging from the record of the petition, it is manifest that a pure civil dispute is sought to be camouflaged and given a criminal texture and impugned FIR has been lodged by the private respondent to give vent to her frustration and feed fat the grudge of disinheritance of her husband by his father-petitioner No. 1. The allegations made in the FIR, are actuated with malice in fact and law.

30. Having regard to the aforesaid, present petition is allowed and the impugned FIR is quashed.

31. Disposed of accordingly along with connected CMs.

(RAJESH SEKHRI)
JUDGE

Jammu:
01.09.2025
Paramjeet

Whether the order is speaking?
Whether the order is reportable?

Yes
Yes