

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

CRM(M) No. 646/2023

c/w

CRM(M) No. 710/2023

**Reserved on 17.03.2025
Pronounced on 03.04.2025**

Anil Gupta and another

.....Appellant(s)/Petitioner(s)

Through: Mr. Himanshu Beotra, Adv.

vs

Union Territory of J&K and another

..... Respondent(s)

Through: Mr. P. D. Singh, Dy.AG for No. 1
Mr. Bhavesh Bhushan, Adv. for No. 2

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioners through the medium of petition bearing CRM(M) No. 646/2023 have challenged order dated 15.07.2023 passed by the Principal Sessions Judge, Jammu(hereinafter to be referred as the revisional court), whereby, a revision petition filed against order dated 02.03.2023 passed by the learned Special Excise Magistrate, Jammu(hereinafter to be referred as the Trial Magistrate), has been allowed and the SHO Police Station, Channi Himmat, Jammu has been directed to register an FIR on the basis of the complaint filed by respondent No. 2 against the petitioners.
2. It appears that a complaint alleging commission of offences under sections 120-B, 193, 195/408, 196, 209, 211, 323, 327, 330, 342, 347, 348, 352, 357, 384, 385, 386, 387, 392, 394, 403, 420, 465, 467, 468, 471, 474, 500,

504 and 506 read with section 34 IPC was filed by respondent No. 2 before the learned Special Excise Magistrate, Jammu.

3. Briefly stated, the allegations made in the said complaint are that on 19.05.2022 at about 11 AM when respondent No. 2/complainant had gone to his office, the petitioners yelled at him calling him a thief and they alleged that the complainant had misappropriated funds of the firm. It was alleged that the complainant was over powered by the petitioners as well as other employees of the firm and he was dragged into a room where he was wrongfully confined and brutally beaten by them. It was conveyed to the complainant that he along with two more employees, namely, Ankush Sharma and Surinder Kumar had misappropriated the funds of the firm from June 2020 onwards and that the other two employees had already admitted their guilt and refunded the money. It was pleaded by the complainant that he had not done anything wrong but the petitioners did not listen to him. He was coerced into signing certain documents by putting his life and limb under serious threat. He was also told to get an amount of Rs. 3.50 lacs or else he would not be let off.

4. It was further alleged that father in law of the complainant came on spot to get him released from illegal confinement and his family members also got worried about his safety, whereafter his elder sister went to Police Station, Channi Himmat to make a complaint in respect of the incident. It was alleged in the complaint that the Incharge of the said Police Station informed petitioner No. 1 about the complaint lodged by the sister of the complainant but because of the influence of the petitioners, the Police did not act.

5. At about 3-4 PM on the same day, the father in law of the complainant, Rajinder Singh and his brother in law Rakesh Singh came to the premises where the complainant had been kept in illegal confinement. His wife Laxhmi Devi and his sons, two sisters and brother in law also came over there, but they were not allowed to enter the building. It was further alleged that thereafter the petitioners illegally confined father in law of the complainant and asked the complainant to go with his brother in law along with two employees of the petitioners to the house of father in law of the complainant at Kala Gate and bring back two vehicles which were lying over there. The registration of one of the vehicles is stated to be JK14H 5666 whereas the registration of other vehicle is stated to be JK14H 8304. The first one is stated to be registered in the name of his brother in law, Rakesh Singh, whereas the second one is stated to be registered in the name of Laxhmi Devi, the wife of the complainant. Both these vehicles were brought along with documents to the office of the petitioners at about 5.30 PM and these vehicles were retained by the petitioners in an illegal manner for ensuring the arrangement of money by the complainant.
6. It was further alleged in the complainant that at about 6 PM on the same day, the petitioners allowed father in law of the complainant to go with his other family members but the complainant was taken into custody and was made to sign two blank cheques bearing Nos. 927071 and 927072 of J&K Bank Branch Gujjar Charitable Trust Jammu, whereafter the possession of these cheques were taken by the petitioners. According to the complainant, dates on those cheques were filled as 18.06.2022 and 05.08.2022 and the amount of Rs. 6 lacs and Rs. 8 lacs was also filled in

these cheques, which were drawn in favour of M/s ANN Agencies. The said cheques are stated to have been presented for encashment and the same were returned unpaid. Legal notices were issued by the petitioners through their counsel, whereafter criminal proceedings were initiated against the complainant.

7. After the aforesaid events, wife and brother in law of the complainant addressed a written application to the Senior Superintendent of Police, Jammu(SSP) seeking registration of the FIR. The said application was sent through registered post on 01.10.2022. It was further submitted in the complaint that no legal action was taken by the Police despite receipt aforesaid application and when the complainant approached the Police for getting the status relating to the registration of the FIR, the Police did not give any satisfactory response.
8. With the aforesaid allegations, the complaint came to be filed before the learned Trial Magistrate on 17.01.2023. On the said date, the learned Trial Magistrate sought a report from the Senior Superintendent of Police Jammu. After getting the report from the Police, the learned Trial Magistrate vide order dated 02.03.2023 dismissed the application of the respondent/complainant primarily on the grounds that the respondent/complainant has not complied with the requirement of approaching the incharge of the Police Station concerned and the SSP before filing the complaint before the court. According to the learned Trial Magistrate, the complainant had not adhered to the provisions of law as contained in section 154(1) and 154(3) of the Code of Criminal Procedure(Cr.P.C.). It was further observed by the learned Trial

Magistrate that there was delay of seven months in filing the complaint which has remained unexplained. The learned Trial Magistrate also went into merits of the allegations and observed that *prima facie* it appears to be a conscious attempt on the part of the complainant to create his defence in the complaints lodged by the petitioners against him under section 138 Negotiable Instruments Act.

9. The aforesaid order came to be challenged by a way of revision petition by the respondent/complainant before the learned revisional court, who vide impugned order dated 15.07.2023 allowed the revision petition and directed the Police to register an FIR against the petitioners. While doing so, the learned revisional court held that the complainant had specifically stated in his complaint that his elder sister had approached the SHO concerned and he had also placed on record the complaint addressed by his wife and brother in law to SSP Jammu. Thus, requirements of sections 154(1) and 154(3) of the CrPC stand adhered to in the present case. It was observed by the learned revisional court that in view of the law laid down by the Supreme Court in **Lalita Kumari v Government of Uttar Pradesh and others, 2014(2) SCC 1** and **Upkar Singh vs. Ved Prakash and others, (2004) 13 SCC 292**, it was bounden duty of the learned Magistrate to direct registration FIR in the case. It was also observed that the learned Trial Magistrate has exceeded its jurisdiction by going into the merits of the allegations made in the complaint filed by the respondent No. 2 as the scope of preliminary verification is only to ascertain as to whether cognizable offences are made out or not.

10. The petitioners have challenged the impugned order passed by the revisional court on the grounds that it was not open to the learned revisional court to re-appreciate the material on record as the same is beyond the scope of revisional power. It has been further contended that the learned Trial Magistrate has failed to appreciate the fact that the respondent/complainant had not adhered to the provisions contained in sections 154(1) and 154(3) of the Cr.P.C. It has also been contended that there was no material before the learned revisional court to conclude that the respondent had complied with the requirements of section 154(1) of the Cr.P.C. and that the story put up by the wife of the complainant and brother in law in their application to the SSP is entirely different from the story projected in the complaint. It has also been contended that there was a huge delay of seven months in filing the application and that there was no explanation for the said delay.
11. It appears that after passing of the impugned order by the revisional court, the Police registered FIR No. 118/2023 for offences under sections 120-B, 193, 195, 408, 196, 209, 211, 323, 327, 330, 342, 347, 348, 352, 357, 384, 385, 386, 387, 392, 394, 403, 420, 465, 467, 468, 471, 474, 500, 504 and 506 read with section 34 IPC with Police Station Channi Himmat Jammu. The petitioners have challenged the said FIR by way of CRM(M) No. 710/2023.
12. I have heard learned counsel for the parties and perused record of the case.
13. The main ground that has been urged by the learned counsel for the petitioners for impugning the order of the revisional court is that the respondent/complainant had not complied with the provisions contained in

sections 154(1) and 154(3) of the Code before filing the complainant before the learned Trial Magistrate.

14. Section 154(1) of the Code mandates an officer incharge of the Police Station to reduce into writing every information relating to commission of a cognizable offence. Sub section (2) of the Section 154 of the Code provides that a copy of such information shall be furnished to the informant free of cost. Sub section (3) provides that a person aggrieved by refusal on the part of the officer incharge of a Police Station to record information as referred to in sub section (1), has the option of sending the substance of such information in writing and by post to Senior Superintendent of Police concerned and if the SSP is satisfied that the information discloses commission of a cognizable offence, he has to either investigate the case himself or direct investigation to be made by a subordinate police officer. Sections 156(3) Cr.P.C. vests power with the Magistrate having jurisdiction under section 190 Cr.P.C. to direct investigation into a cognizable case and such direction has to be made to the officer incharge of the Police Station concerned.

15. The Supreme Court in the case of **Lalita Kumari (supra)** has while interpreting the provisions contained in sections 154 and 156 Cr.P.C. held that the registration of FIR is mandatory under section 154 of the Code if the information discloses commission of cognizable offences and no preliminary enquiry is permissible in such a situation. It has further been held in case the Police Officer, who avoids duty of registering offence if cognizable offence is disclosed, is liable to be subjected to action. The Supreme Court further held that the scope of preliminary enquiry is not to

verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence. The Court also illustrated the types of cases in which preliminary enquiry is to be conducted. One of such types of cases is the cases where there is abnormal delay/*laches* in initiating criminal prosecution e.g. over three months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

16. The ratio laid down by the SC in the aforesaid case was explained by the Supreme Court in the case of **Priyanka Shrivastava vs. U. P and others** **2015(6) SCC 287**. The Supreme Court while noticing the ratio laid down by the Constitution Bench in **Lalita Kumari's case**(supra) observed as under:

24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under Section 156(3) Cr.P.C. and also there is a separate procedure under the Recovery of Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

25. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in the society and also reflects the erroneous approach of the learned Magistrate. It also encourages the unscrupulous and unprincipled litigants, like the respondent no.3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, he had prosecuted the earlier authorities and after the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind

of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of the appellant No.1, who is presently occupying the position of Vice-President, neither the loan was taken, nor the default was made, nor any action under the [SARFAESI Act](#) was taken. However, the action under the [SARFAESI Act](#) was taken on the second time at the instance of the present appellant No.1. We are only stating about the devilish design of the respondent No.3 to harass the appellants with the sole intent to avoid the payment of loan. When a citizen avails a loan from a financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under [Section 156\(3\)](#) Cr.P.C. is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance of Section 154(3), indicating it has been sent to the Superintendent of police concerned.

26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.

27. In our considered opinion, a stage has come in this country where [Section 156\(3\)](#) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of said Act or under [Article 226](#) of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores. We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be

verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.

17. From the aforesaid observations of the Supreme Court in **Priyanka Shrivastava's case (supra)**, it is clear that in appropriate cases, a Magistrate would be well advised to verify the truth and he/she can also verify the veracity of the allegations. It is also clear that there has to be prior application under section 154(1) and 154(3) CrPC while filing an application under section 156(3) Cr.P.C. and a complainant has to clearly spell out both these aspects in his application and necessary documents to that effect have to be filed. The Court further held that the veracity of the deposition made by the complainant can also be verified by the Magistrate regard being had to the nature of the allegations of the case and that the learned Magistrate should also be aware of the delay in lodging of the FIR.
18. Adverting to the facts of the present case, the complainant in his complaint before the learned trial Magistrate has pleaded that his elder sister had approached SHO Police Station, Channi Himmat with a verbal complaint regarding the incident but instead of registering her complaint and coming to the rescue of the complainant, the incharge of Police Station made a personal phone call to petitioner No. 1. The complaint filed by the respondent/complainant before the learned trial Magistrate is supported by his own affidavit. As per the case of the complainant, it was his elder

sister who approached the Incharge Police Station, Channi Himmat with a report relating to the incident but affidavit of elder sister of the complainant has not been annexed with the complaint to certify this fact. Apart from this, as per the ratio laid down by the Apex Court in **Priyanka Shrivastava's case(supra)**, the complainant has not only to indicate that he has made a prior application under section 154(1) and 154(3) Cr.P.C. but he has also to annex necessary documents to that effect. In the instant case, even if, it is assumed that an oral complaint was made by the sister of the complainant with the Incharge Police Station neither any affidavit of the said person nor any document to show that she had lodged any complaint with Police Station, Channi Himmat, has been placed on record by the complainant. Thus, clearly the complainant has not adhered to the provisions contained in section 154(1) Cr.PC in the present case.

19. That takes us to the question whether requirement under section 154(3) Cr.P.C. has been complied with. The wife and brother in law of the complainant, namely, Laxhmi Devi and Rakesh Singh are stated to have addressed a communication to SSP Jammu on 01.10.2022. A perusal of the contents of the said communication would reveal that both the applicants have essentially made a prayer before the SSP concerned seeking action against the petitioners for illegally retaining the vehicles belonging to them, though the applicants have also made a reference in the said application to the incident of obtaining cheques from the complainant under coercion. However, there are no averments in the said application with regard to the material incidents which have been highlighted by the complainant in his complaint presented before the learned trial Magistrate.

There is no mention of allegations regarding illegal confinement of the complainant or illegal confinement of his father in law nor there is any mention of beating up and dragging of the complainant by the petitioners. So strictly speaking it cannot be stated that the complainant has brought all the material facts to the notice of the SSP Jammu through his wife and brother in law vide his application dated 01.10.2022. Thus, even the provisions of requirements of section 154(3) have not been strictly complied with by the complainant before approaching the learned Trial Magistrate.

20. The learned revisional court while dealing with the aforesaid aspect of the matter has, without any basis, observed that the complainant/respondent No. 2 could not file complaint before the SSP because at that time, he was in illegal confinement and subsequently under the influence of petitioner No. 2, he was arrested and after being bailed out, the complaint was filed.
21. If we have a look at the complaint filed by the respondent No. 2/complainant before the learned Trial Magistrate, everything has taken place on 19.05.2022. Firstly at 11 AM on the said day, he was illegally confined and made to sign certain papers and thereafter at 3-4 PM on the same day, his other relatives including father in law and brother in law and wife were brought to the office premises of the petitioners and the two vehicles were brought over there at about 5.30 PM. On the same day, at about 6 PM, father in law of the complainant was allowed to go along with other family members but the complainant was made to sign blank cheques. After 19.05.2022, up till the time he was arrested in FIR No.

115/2022 which was registered on 24.07.2022 at the instance of the petitioner-Anil Gupta, he had ample time at his disposal to move the machinery of the police as well as the Magistrate. Therefore, the observations of the learned revisional court that the petitioner could not file complaint before the Police because he was in the illegal confinement and thereafter arrested in FIR filed by the petitioner-Anil Gupta, is a figment of imagination without any basis.

22. From the above sequence of events, it is clear that the respondent/complainant has, after sleeping over the matter for about seven months and without approaching the Police Authorities, filed the complaint before the learned Trial Magistrate that too without adhering to the provisions contained in section 154(1) and 154(3) of the CrPC, which have been held to be mandatory. Any direction for registration of FIR in contravention of these requirements cannot be sustained in law.
23. The Supreme Court in the case of **Babu Venkatesh and others vs State of Karnataka and anr** reported in **2022 LiveLaw(SC) 181** has held that prior to the filing of a petition under section 156 CrPC there have to be applications under section 154(1) and 154(3) of the Cr.P.C. and while directing registration of FIR, the Magistrate has to consider these aspects of the matter. Recently the Supreme Court has, in the case of **Ranjit Singh Bath and another v U. T of Chandigarh and another, Cr. Appeal No. 4313 of 2024 decided on 06.03.2025**, held that without adhering to the requirements of section 154(1) and 154(3) of the Cr.P.C, a Magistrate cannot direct registration of FIR under section 156(3) Cr.P.C

as the same would be contrary to the binding decision in **Priyanka Shrivastava's case**(supra).

24. Learned counsel for the petitioner has contended that the complainant had brought to the notice of the learned Trial Magistrate another version of the occurrence that had taken place on 19.05.2022 and merely because FIR has been registered against the complainant on the basis of complaint lodged by the petitioner-Anil Gupta in respect of the version of occurrence given by the said petitioner, it is not permissible in law to deny registration of FIR on the basis of the complaint made by the petitioner, which is counter version of the same occurrence. In this regard the learned counsel for the petitioners has relied upon the judgment of the Supreme Court in **Upkar Singh vs Ved Prakash and others, (2004) 13 SCC 292** and the judgments of this Court in the case of **Govind Singh vs U. T. of J&K, Manu/JK/07502/2021** and **Abdul Rashid vs. UT of J&K and others, CRM(M) No. 238/2021, decided on 10.02.2023.**
25. There is no quarrel with the proposition of law that two FIRs with regard to the same occurrence can be registered when there are two different versions with regard to the same occurrence but in the instant case, the situation is different. The FIR which has been registered by petitioner-Anil Gupta against the respondent/complainant is relating to misappropriation of funds by the respondent and the co-accused over a period of time ranging from May 2022 to June 2022 whereas the allegations made in the complaint lodged by the respondent/complainant relate to 19.05.2022 and these pertain to alleged illegal confinement of the complainant and exertion of coercion upon him to part with money, cheques and vehicles.

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This is entirely a different occurrence which is not a cross version of the occurrence which is subject matter of FIR No. 115/2022 lodged by the petitioners against the respondent/complainant on 24.07.2022. The said FIR has, admittedly resulted in a charge sheet against the respondent/complainant. The judgments relied upon by the learned counsel for the respondent/complainant in this regard are of no benefit to the case of the respondent/complainant.

26. As already stated pursuant to the direction passed by the learned revisional court, FIR No. 118/2023 has been registered by the Police Station, Channi Himmat against the petitioners. The said FIR has been challenged by the petitioners by virtue of separate petition filed under section 482 Cr.P.C. bearing CRM(M) No. 710/2023.
27. Since it has already been held by this Court that direction of the learned revisional court for registration of the said FIR without adherence to the provisions contained in section 154(1) and 154(3) Cr.P.C. is not in accordance with law therefore, the impugned FIR No. 118/2023 of Police Station Channi Himmat dated 07.08.2023 cannot be sustained in law, the same being consequence of an order, which is not in accordance with law.
28. Even on merits, the criminal proceedings emanating from the impugned FIR against the petitioners are not sustainable in law for the reasons that the facts narrated hereinbefore clearly indicate that the said FIR has been lodged by the respondent No. 2 with a view to wreck vengeance upon the petitioners and to spite them. It is an admitted case of the parties that the complainant/respondent No. 2 was an employee of the petitioners who had leveled allegations of misappropriation of funds against him. They had

even registered FIR No. 115/2022 dated 24.07.2022 against respondent No. 2 which has culminated into a charge sheet against him. The petitioners have also filed criminal complaints under section 138 Negotiable Instruments Act in respect of the cheques issued by respondent No. 2 on 18.06.2022 and 05.08.2022 for amount of Rs. 6.00 lacs and 8.00 lacs respectively. These complaints have been filed by the petitioners against the respondent/complainant in December, 2022 after dishonor of the cheques for insufficiency of funds. It is only thereafter that the respondent/complainant approached the learned Trial Magistrate by way of an application under section 156(3) Cr.P.C. which came to be filed before the learned Trial Magistrate on 17.01.2023 immediately after the respondent No. 2 got knowledge about the filing of the criminal complaints under section 138 Negotiable Instruments Act against him. The learned Trial Magistrate is right in his observation that the proceedings launched by the respondent No. 2 against the petitioners appear to be a devise to create a defence for himself in the criminal complaints filed by the petitioners against him. Although the question whether such an observation could have been made by the learned Trial Magistrate while considering an application under section 156(3) Cr.P.C. is debatable one but this Court while dealing with the present petition under section 482 Cr.P.C. would be well within its jurisdiction to take into account this aspect of the matter.

29. From the manner in which the respondent/complainant has proceeded to launch prosecution against the petitioners, it clearly reflects that it is a brazen attempt on his part to persecute the petitioners, as a counter blast to

the criminal challan as well as criminal complaints filed against him at the instance of the petitioners. The allegations made in the impugned FIR are absurd and inherently improbable. The criminal prosecution initiated by the respondent/complainant against the petitioners is manifestly actuated with *mala fides* with an ulterior motive for wrecking vengeance against the petitioners.

30. The Supreme Court in **Mr. Robert John D'Souza and others v V. Gomes and another, (2015) 9 SCC 96** has observed that the Court must ensure that the criminal prosecution is not used as an instrument of harassment for seeking private vendetta or with an ulterior motive to pressurize the accused. Similarly, in **M/s Medchi Chemicals and Pharma Pvt. Ltd. vs Biological E. Ltd and others** reported in **(2000) 3 SCC 269**, the Supreme Court has observed that frustrated litigants ought not to be allowed to indulge so as to give vent to their vindictiveness through a legal process and such an investigation ought not to be allowed to be continued since the same is opposed to concept of justice which is paramount. Again in **Mohan Goswami and anr. vs State of Uttrakhanchal and others, (2007) 12 SCC 1**, the Supreme Court has laid down that the Court proceedings are not to be permitted to degenerate into a weapon of harassment or persecution.
31. In view of the aforesaid analysis of law on the subject and applying the same to the facts emanating in the present case from the material on record, it appears to be a fit case where this Court should exercise its power under section 482 Cr.P.C. (now 528 Bharatiya Nagrik Suraksha Sanhita) to quash the impugned FIR and it also appears that the learned

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revisional court has exceeded its jurisdiction in setting aside a well reasoned order passed by the learned Trial Magistrate.

32. For the foregoing reasons, both the petitions(CRM(M) Nos. 646/2023 and 710/2023) are allowed. The impugned order passed by the revisional court on 15.07.2023 is set aside. Further FIR bearing No. 0118 dated 07.08.2023 registered with Police Station Channi Himmat Jammu and the proceedings emanating therefrom are also quashed.

(SANJAY DHAR)
JUDGE

Jammu
03.04.2025
Rakesh PS

Whether the order is speaking: Yes
Whether the order is reportable: Yes

