

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

Pronounced on:04.05.2026

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*Whether the operative part or
full judgment is pronounced:*

Full

CRM(M) No.274/2021

c/w

CRM(M) No.334/2021

MURTAZA @ALI JAHANGIR
SAKEENA

...PETITIONER/APPELLANT(S)

Through: - Mr. Jahangir Iqbal Ganai, Sr. Advocate, with
Ms. Gousia, Advocate (for petitioner in CRM(M)
No.274/2021)

Mr. Hamza Prince, Advocate (for petitioner in
CRM(M) No.334/2021)

Vs.

UT OF J&K & ANR.
INSHA JAHANGEER & ANR.

...RESPONDENT(S)

Through: - Mr. Mr. Hamza Prince, Advocate (for R2 in
CRM(M) No.274/2021)

Mr. Jahangir Iqbal Ganai, Sr. Advocate with Ms.
Gousia Advocate (for R1 & R2 in CRM(M)
No.334/2021)

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

ORDER(ORAL)

1. Through the medium of present judgement, the afore-
titled two clubbed petitions are proposed to be disposed of.
Vide CRM(M) No.274/2021, the petitioner has challenged
FIR No.50/2021 for offences under Section 454 and 380 of
IPC registered with Police Station, Sadder, Srinagar, whereas

vide CRM(M) No.334/2021, the petitioner has challenged the complaint filed against her by respondent No.1 therein, which is stated to be pending before the Court of Judicial Magistrate, 1st Class (2nd Additional Munsiff) Srinagar. In the said petition, challenge has also been thrown to order dated 29.09.2021 passed by the learned trial Magistrate, whereby process has been issued against the accused.

Relevant facts pertaining to CRM(M) No.274/2021:

2. As per allegations made in the impugned FIR, which has been registered on the basis of the directions issued by the learned Special Mobile Magistrate, Passenger Tax & Electricity, Srinagar, the common ancestor of the petitioner/accused and the complainant, namely, Mrs. Naseema Akhter and Mrs. Jabeena Husain, were owners in possession of residential house along with land underneath and appurtenant thereto measuring 1 kanal and 10 marlas in equal ration falling under Khasra No.1443/181 situated at Baghati Barzullah, Srinagar. It has been alleged by the complainant that as per Muslim Personal Law, the said property should have devolved upon the legal heirs to the extent of their respective shares. It has been alleged that the petitioner/accused trespassed into the residential house of the complainant and broke open the locks of the property and took away golden ornaments and money along with

other belongings in the absence of the complainant. According to the complainant, the petitioner and co-accused grabbed the properties and cheated the complainant and her sister despite knowing that they are also the legal heirs to the extent of their respective shares and have right over the money, gold ornaments, FDRs and other valuable items. It has been further alleged in the complaint that Mrs. Jabeena Hussain is not in a position to locate the movable property stolen by the petitioner and co-accused and when the same could not be traced out, the complainant approached the police for investigating the case.

3. The petitioner has challenged the impugned FIR on the grounds that he has filed a civil suit prior to the registration of impugned FIR before the Court of City Munsiff, Srinagar, against the complainant and other defendants seeking a declaration that he is owner in possession of the property, which is subject matter of the impugned FIR. According to the petitioner his father, Shri Jahangir Hussain, expired at a time when he was minor. It has been submitted that, in order to pressurize the petitioner, the complainant has lodged a false FIR against him and the co-accused. It has been submitted that the petitioner is the only successor in respect of the property in question but respondent No.2 and her sister are trying to pressurize him to settle the issue at

their terms. It has been submitted that even the complainant has filed a suit against the petitioner claiming similar relief as has been prayed by the petitioner in his suit.

Relevant facts pertaining to CRM(M) No.334/2021:

4. This petition has been filed by Sakeena, who happens to be the mother of Ms. Esha Javaid, the complainant in FIR No.50/2021 which is subject matter of challenge in the connected petition. The petitioner has challenged the complaint filed by sister of Murtaza alias Ali Jahangeer who happens to be the petitioner in connected petition (CRM(M) No.274/2021). In the said complaint, respondent No.2 in CRM(M) No.274/2021, has been impleaded as accused besides impleading petitioner Sakeena and one Farooq Sultan as other accused to the said complaint.

5. In the impugned complaint, it has been alleged that the complainant is in occupation of the same property which is subject matter of FIR No.50/2021 of Police Station, Saddar, Srinagar, by virtue of inheritance. It has been alleged that the accused persons are hand-in-glove with the concerned SHO and they trespassed in the property with the help of goons and they threatened the complainant with dire consequences. It has been submitted that the matter is subjudice before the court of City Munsiff, Srinagar, in a suit but despite this, the accused persons are creating threat in

the mind of the complainant by illegally trespassing into the property in question. It has been alleged in the complaint that the accused persons were carrying iron rods and other lethal equipments, with a view to destroy the property of the complainant. They removed the iron gate and other entries to the property in question and threatened the complainant and other family members with dire consequence. It has been alleged that the concerned SHO seems to be hand-in-glove with the accused persons as he did not take any action in the matter. It has been alleged that the accused persons broke open locks of the rooms and stole valuable items from the house in question and they also used abusive language against the complainant and her family members.

6. The learned Magistrate, after recording preliminary evidence of the complainant and after considering the report of the police submitted in terms of Section 202 of Cr. P. C, proceeded to issue process against the petitioner and co-accused in terms of impugned order dated 29.09.2021.

7. The petitioner has challenged the impugned complaint and the impugned order passed by the learned trial Magistrate on the grounds that the contents of the impugned complaint do not make out any offence against her or other co-accused. It has been further contended that the impugned complaint is nothing but an abuse of process of

law as a co-owner cannot be stopped from entering the premises or using the same in any manner. It has been contended that in terms of the report of enquiry submitted by the police under Section 202 of Cr. P. C, no offence was found made out against the accused persons but despite that, the learned trial Magistrate proceeded to issue process against them. It has also been contended that the dispute between the parties is purely of a civil nature, regarding which they are contesting litigation before the civil courts, therefore, filing of criminal complaint is nothing but abuse of process of law.

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

9. It is ironical that both the contesting parties have challenged the impugned FIR and the impugned complaint on identical ground that the dispute between them is purely of civil nature which has been given a criminal colour with a view to pressurize the adverse party. Once the parties admit that the dispute between them is purely of civil nature and it has been given a criminal colour with an oblique motive to pressurize the adverse party, the criminal proceedings in both the cases cannot be sustained.

10. It is the admitted case of the parties that they are fighting civil litigation before the civil courts with regard to the property which is subject matter of dispute between them. Although both the parties have alleged that valuable items were stolen by the adverse party from the house which is subject matter of dispute, yet the investigating agency has, in its reply, clearly stated that these allegations were not found substantiated. It has been indicated in the status report filed by the investigating agency that the alleged stolen properties mentioned in the complaint were not found stolen from the scene of the occurrence. This goes on to show that the contesting parties have levelled reckless and false allegations against each other with a view to give criminal colour to a dispute which is purely civil in nature.

11. The Supreme Court has, in the case of **Paramjeet Batra v. State of Uttarakhand** (2013) 11 SCC 673, held that the High Court must not hesitate in quashing criminal proceedings which are essentially of a civil nature. It would be apt to refer the following observations of the Supreme Court:

“While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether

essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court.”

12. Similar view has been taken by the Supreme Court in **Randheer Singh v. State of U.P.**, (2021) 14 SCC 626, by observing that criminal proceedings cannot be taken recourse to as a weapon of harassment. In **Usha Chakraborty v. State of West Bengal**, 2023 SCC OnLine SC 90, the Supreme Court held that a dispute, which is essentially of a civil nature, cannot be given a cloak of a criminal offence. It has further been held that the High Court, in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, would be justified in quashing the said cases.

13. In the light of aforesaid legal position and having regard to the fact that the dispute between the contesting parties is essentially of civil nature, it is a fit case where this Court should exercise its powers under Section 482 of the Code of Criminal Procedure to quash both impugned FIR as well as the impugned complaint, leaving it open to the contesting parties to get their rights in respect of the disputed property adjudicated from the civil court.

14. Accordingly, both the petitions are allowed and the impugned FIR No.50/2021 for offences under Section 454 and 380 of IPC registered with Police Station, Sadder, Srinagar, and the proceedings emanating therefrom are quashment. Similarly, the impugned complaint titled “**Insha Jhangir vs. Esha Javaid & Ors.**” pending before the Court of learned Judicial Magistrate, 1st Class (2nd Additional Munsiff), Srinagar, and the proceedings emanating therefrom, are also quashed.

**(Sanjay Dhar)
Judge**

SRINAGAR

04.05.2026

“Bhat Altaf-Secretary”

Whether the Order is speaking:	YES
Whether the Order is reportable:	YES/NO