

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

**CRM(M) 486/2023**

**SHABEENA IBRAHIM**

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

Through: Mr. Sahil Parvez Kachroo, Advocate

**Vs.**

**MIR USMAAN DISOOKI AND ANR.**

**...Respondent(s)**

Through: Mr. A.R. Dar, Advocate with  
Mr. Sheikh Nisar, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER**  
15.05.2026

1. The petitioner is aggrieved by the order of taking cognizance on the basis of a complaint filed by respondent No.1 before the Court of the Chief Judicial Magistrate, Srinagar, titled "*Mir Usman Disooki vs. Jehan Habibullah Mir and Ors.*", wherein the petitioner has also been arrayed as an accused. By virtue of the said order, the Trial Court proceeded to take cognizance against the petitioner and the co-accused for offences punishable under Sections 499 and 500 IPC.
2. Learned counsel for the petitioner submits that respondent No.1 claims to be aggrieved by certain imputations allegedly made by respondent No.2 in a communication addressed through her advocate to the Branch Manager, HSBC, Barakhamba Road, New Delhi, wherein certain allegations were levelled against respondent No.1. It is contended that the complaint, however, does not contain even a

whisper regarding any specific accusation attributable to the petitioner so as to justify the taking of cognizance against her for offences under Sections 499 and 500 IPC. It is further submitted that the complaint is nothing but an abuse of the process of law, intended merely to harass the petitioner, who had acted as attorney for respondent No.2 in the underlying dispute.

3. During the course of hearing, learned counsel for the respondents was called upon to point out from the contents of the complaint the allegations constituting the basis for proceeding against the petitioner. However, despite opportunity, learned counsel failed to draw the attention of this Court to any specific averment in the complaint that could have persuaded the Trial Court to take cognizance against the petitioner.
4. Having heard learned counsel for the parties and upon perusal of the record, this Court finds that although cognizance has been taken against both the petitioner and respondent No.2, the complaint dated 08.05.2023 does not disclose any allegation or accusation against the petitioner which may be construed as defamatory in nature. It appears that respondent No.1 and respondent No.2 are embroiled in a dispute relating to the estate of Habibullah Mir, wherein one party had obtained a succession certificate and the other alleged the same to have been procured fraudulently. Be that as it may, such inter se dispute between the respondents would not entitle respondent No.1 to implicate the petitioner merely because she acted as attorney for respondent No.2.

5. The complaint nowhere indicates that the petitioner made any false imputation against respondent No.1 with the intention of harming her reputation in the estimation of the general public. The Trial Court, while taking cognizance against the petitioner, failed to satisfy itself as to whether the complaint contained any material warranting formation of an opinion that the petitioner had committed offences under Sections 499 and 500 IPC. This Court has carefully gone through the complaint annexed as Annexure-II to the petition and finds merit in the submission advanced by learned counsel for the petitioner that there is not even a whisper therein alleging any defamatory act on the part of the petitioner. In such circumstances, the taking of cognizance against the petitioner is wholly unsustainable. The Trial Court appears to have acted mechanically and without due application of mind to the contents of the complaint.
6. For the foregoing reasons, this Court finds no justification for permitting continuation of the proceedings against the petitioner. Consequently, the impugned order, insofar as it pertains to taking cognizance against the petitioner for offences under Sections 499 and 500 IPC, is without any legal basis and suffers from both factual as well as legal infirmity. The Trial Court has committed grave legal impropriety by failing to examine whether any prima facie case was made out against the petitioner before proceeding to take cognizance. Accordingly, the petition is allowed. The complaint, insofar as it relates to the petitioner herein (accused No.2 in the complaint), is quashed. However, the Trial Court shall be at liberty to proceed

