

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

**CRM(M) No.399/2021
CrIM No.1348/2021**

Ghulam Mohammad Nowshari & Ors. ...PETITIONERS

Through:- Mr. Aadil Parray, Advocate.

Vs.

Nazir Ahmad Malik & anr. ...RESPONDENT(S)

Through:-

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

**ORDER
03.12.2021**

Petitioners have challenged order dated 06.10.2021 passed by Chief Judicial Magistrate, Srinagar, on the basis of the complaint made by the respondent No.1. The learned Chief Judicial Magistrate, Srinagar, has directed the concerned Police Station to register FIR and investigate the allegations made in the complaint. Petitioners have also challenged FIR No.35/2021 of Police Station, Zadibal, Srinagar, which has been registered pursuant to the aforesaid directions of the Chief Judicial Magistrate. Challenge has also been thrown to the proceedings initiated by the learned Chief Judicial Magistrate on the basis of another private complaint filed by the respondents against the petitioners on 05.10.2021.

It is contended by learned counsel for the petitioners that the contents of the complaint filed by respondent No.1 against the

petitioners do not disclose commission of a non-cognizable offence as is clear from the fact that the police pursuant to the impugned directions of the Chief Judicial Magistrate has registered the impugned FIR for commission of offence under Section 506 IPC, which is non-cognizable in nature. It is contended that in terms of Section 156(3) of Cr. P. C, it is only when a complaint discloses commission of a cognizable offence that a Court has jurisdiction to direct Incharge of a Police Station to enter into investigation of the case.

There appears to be merit in the submission of learned counsel for the petitioners.

Issue notice to the respondents. Notice be issued to the respondent No.1 through concerned Police Station. Notice be issued to respondent No.2 through Mr. B. A. Dar, Sr. AAG.

List again on 9th of February, 2022. In the meanwhile, till next date of hearing before the Bench, investigation in the impugned FIR shall remain stayed.

Modification/alteration on motion.

(SANJAY DHAR)
JUDGE

SRINAGAR

03.12.2021

"Bhat Altaf, PS"

<i>Whether the order is speaking:</i>	<i>Yes/No</i>
<i>Whether the order is reportable:</i>	<i>Yes/No</i>