

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

CRM(M) No. 23/2023
CrIM No. 32/2023

Mussarat Jabeen and others

....Petitioner/Appellant(s)

Through :- Mr. Sunil Sethi, Sr. Advocate with
Mr. Mohsin Bhatt, Advocate.

V/s

UT of J&K and another

....Respondent(s)

Through:-

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
17.01.2023

1. Heard learned counsel for the petitioners.
2. The husband of the respondent no. 2 is serving as Laboratory Assistant in the Government Girls Higher Secondary School, Miran Sahib of which the petitioner no. 1 is the principal and the petitioner nos. 2 and 3 are the faculty members of the said school.
3. The husband of the respondent no. 2 on account of alleged misconduct on his part against the petitioner no. 1 and other staff of the school came to be booked in the FIR no. 0130 of 2021 dated 27.11.2021 registered with the Police Station Miran Sahib for the alleged commission of offences under sections 353, 504, 509, 298 Indian Penal Code. The registration of the said FIR was at the instance of the petitioner no. 1.
4. In order to counter said FIR, the husband of respondent no. 2 as part of plot got an application under section 156(3) CrPC preferred which resulted

in report dated 01.02.2022 submitted by the Police Station, Miran Sahib, with a clear reference that the complaint then being made by the respondent no. 2 to influence the investigation of FIR no. 0130/2021.

5. After more than one year time gap, the respondent no. 2 again came forward with an application under section 156(3) CrPC for registration of the FIR against the petitioners herein. This application came to be preferred before the Additional Special Mobile Magistrate, R.S. Pura on 09.12.2022 wherein learned Judicial Magistrate vide an order dated 26.12.2022 has come to direct the SHO Police Station, Miran Sahib for registration of FIR and investigation.

6. Learned counsel for the petitioners submits that registration of the FIR is nothing, but a sheer act of *malafide* on the part of the respondent no. 2 acting in connivance with and at the behest of the husband as both her husband and respondent no. 2 are defaulting loanee and the guarantor of the bank loan for the recovery of which the petitioner no. 1 as being head of the Institution had called upon the husband of the respondent no. 2 to clear the bank liability.

7. *Prima facie* case is made out.

8. Issue notice to the respondents.

9. Petitioner to furnish registered postal covers for service of the respondents within seven days whereupon the Registrar Judicial, Jammu to issue notice.

10. List on 28.02.2023.

11. Meanwhile, subject to objections from the other side and till next date of hearing, the operation of the impugned order dated 26.12.2022 shall remain in stayed.

(RAHUL BHARTI)
JUDGE

JAMMU
17.01.2023
Shivalee

