

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

372

CRM(M) No. 496/2024

CrlM No. 993/2024

Rashpal Chand & Ors.

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

Through: Mr. Mohd. Latief Malik, Advocate.

vs

UT of J&K & Anr.

..... Respondent(s)

Through: Mr. P D Singh, Dy. AG.

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

ORDER

03.07.2024

Petitioners are aggrieved of FIR No. 0026/2024 dated 27.05.2024 for offences under Sections 447, 371, 504, 506 IPC registered at Police Station, Khour by Tehsildar Pargwal.

Learned counsel for the petitioners has relied upon “**Naman Singh alias Naman Pratap Singh & Anr. vs. State of Uttar Pradesh & Ors. ; 2019 (106) AIICC 656** to contend that FIR lodged by the respondent no. 2-Executive Magistrate 1st Class is without jurisdiction. Relevant excerpt of the judgment reads as below:-

“It is therefore apparent that in the scheme of the Code, an Executive Magistrate has no role to play in directing the police to register an FIR on basis of a private complaint lodged before him. If a complaint is lodged before the Executive Magistrate regarding an issue over which he has administrative jurisdiction, and the Magistrate proceeds to hold an administrative inquiry, it may be possible for him to lodge an FIR himself in the matter. In such a case, entirely different considerations would arise. A reading of the FIR reveals that the police has registered the FIR on directions of the Sub-Divisional Magistrate which was clearly impermissible in the law. The Sub-Divisional Magistrate does not exercise powers under Section 156(3) of the Code. The very institution of the FIR in the manner done is contrary to the law and without jurisdiction.”

Prima facie, a case for indulgence is made out.

Notice.

Mr. P D Singh, learned Dy. AG accepts notice on behalf of the respondents. He seeks and is granted four weeks' time to file objections.

List on 11.09.2024.

Meanwhile, investigation of the impugned FIR shall stay.

**(Rajesh Sekhri)
Judge**

Jammu

03.07.2024/Abinash