

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

Case No:- CRM(M) No. 955/2023
CrIM No. 1598/2023

Yash Pal Dogra

....Petitioner (s)

Through :- Mr. Rohan Nanda, Advocate.

V/s

UT of J&K & anr

....Respondent(s)

Through :-

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
10.11.2023

1. The instant petition has been filed by the petitioner for seeking quashment of the FIR bearing No. 146/2023 dated 04.09.2023 under Sections 447, 323, 354, 504, 506 & 509 IPC registered with Police Station, Hiranagar.
2. Learned counsel for the petitioner states that the families of the petitioner and the respondent No. 2 have a dispute with regard to the property.
3. Learned counsel for the petitioners further states that on 24.08.2021, respondent No. 2, her husband and her son released their animals in the fields of the petitioner with the intention to destroy the standing crops. Sham Lal-brother of the petitioner along with Ranjana Devi-sister in law of the petitioner tried to reach their fields in order to stop the animals from destroying the crops. The respondents, her

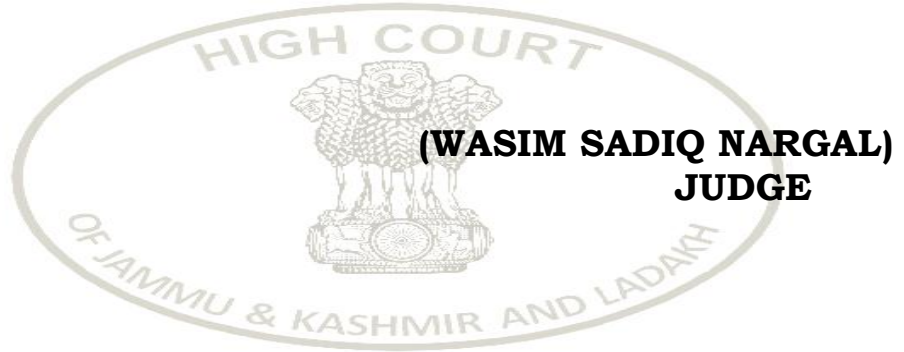
husband and her son stopped them from reaching their fields and hit them with fists and blows because of which the brother and sister in law of the petitioner was injured. As a result, the brother of the petitioner-Sham Lal filed a complaint against the respondent No. 2, her husband and her son and on the basis of the complaint, FIR No. 110/2021 dated 24.08.2021 came to be registered against them.

4. It is stated in the petition that in order to pressurize the family of the petitioner, respondent No. 2 on 31.08.2021 filed a false and frivolous complaint against the two brothers and two sister in laws of the petitioner. On the basis of that complaint, an FIR bearing No. 113/2021 dated 31.08.2021 came to be registered.
5. It is further stated that the father of the petitioner also filed a complaint for the commission of offence under Section 107 and 117 IPC before the Police Station, Hiranagar against the respondent No. 2, her husband and her son and her three brother in laws. In the said complaint, it was stated that the accused persons damaged the cemented poles used for fencing the boundary of the share of the land which the complainant Sh. Sohan Lal inherited from his father. It is further stated in the complaint that when the complainant tried to stop the accused persons, they attacked him and he was saved because of the intervention of some persons.
6. It is urged in the petition that the petitioner was on leave and the respondent No. 2 was well aware of this fact,

therefore, respondent No. 2 filed an application before the court of Learned CJM Kathua. In the application filed by the respondent No. 2 under Section 156(3) of the CrPC before the court of learned Munsiff, Kathua, the learned Magistrate has directed the respondent No. 1 to file the status report and after receiving the status report, the learned Magistrate directed the respondent No. 1 to register an FIR, which is impugned in the present petition, against the petitioner, who is a Govt. employee and presently serving as Hawaldar in ITBP Force.

7. Learned counsel for the petitioner has challenged the impugned FIR on the following grounds:
 - (i) That the allegations leveled are false, frivolous and vague and the FIR impugned has been filed with the malafide intention.
 - (ii) That in order to harass the petitioner, the impugned FIR has been registered.
 - (iii) That the learned Magistrate while passing the order, directing the respondent No. 1 to register an FIR against the petitioner, has not properly examined the application of the respondent No. 2. The learned Magistrate has failed to proceed in a way that has been mentioned in Priyanka Srivastava's case which warrants application of judicial mind while exercising power under Section 156(3) of the CrPC.
8. Heard learned counsel for the petitioner at length and perused the record.
9. Prima facie case is made out for issuance of notice.

10. Issue notice in the main petition as also in application returnable within four weeks.
11. List again on 26.12. 2023.
12. In the meantime, subject to objections and till next date of hearing, the respondents are directed to proceed with the investigation in FIR No. 146/2023 dated 04.09.2023 registered with Police Station, Hiranagar. However, the challan shall not be produced till further orders from this Court.



Jammu:
10.11.2023
Naresh/Secy.