

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

CRM(M) No.973/2022

**Shiv Dayal Age 72 years
S/o Late Sunitu Ram
R/o Chhurta, Tehsil Dansal,
District Jammu.**

.....Petitioner/Appellant(s)

Through: Mr. Vinod Kotwal, Advocate.

Vs

**01. Kewal Krishan
S/o Sh. Bhagat Ram
R/o Chhurta, Tehsil Dansal,
District Jammu.**

**02. Ajay Kumar
S/o Sh. Kewal Krishan
R/o Chhurta, Tehsil Dansal
District Jammu.**

**03. Vishal Singh
S/o Sh. Onkar Singh
R/o Village Basso, Tehsil Dansal
District Jammu.**

..... Respondent(s)

**04. Union Territory of Jammu &
Kashmir through Incharge Police
Station, Jhajjar Kotli,, Jammu.**

Through: Mr. P.S.Parmar, Advocate.

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

JUDGMENT(ORAL)

09.04.2026

- 01.** Petitioner has invoked inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1989, now 528 BNSS, for setting aside order dated 23.06.2022 passed by learned Special Mobile Magistrate, Electricity, Jammu [“the trial Court”] vide which a complaint preferred by him against the respondents came to be dismissed.

- 02.** Before a closer look at the grounds urged in the memo of petition, it shall be expedient to have an overview of background facts of the case.
- 03.** Petitioner preferred a complaint in the trial Court alleging *inter alia* that accused/respondents No.1 and 2, in furtherance of common criminal intention, committed theft, after breaking wall of his shop from inside, and removed all the articles lying there and respondent/accused No.3, who is an auto driver, transported the stolen goods at the instance of respondents No.1 and 2. It was further alleged by the petitioner that he had received telephonic information from someone that theft had been committed in his shop on 05.09.2021 in the morning. He lodged an FIR before SHO Police Station, Jhajjar Kotli for registration of the FIR but no action was taken.
- 04.** A perusal of the record reveals that learned trial Court took cognizance of the matter and forwarded the complaint for a detailed enquiry by SSP, Jammu. The enquiry report was submitted in the trial Court, a perusal whereof reveals that allegations made in the complaint could not be proved against the respondents.
- 05.** Learned trial Court, after going through the enquiry report and contents of the complaint, has come to the conclusion that petitioner/complainant and accused/respondents No.1 & 2 were embroiled in a dispute pertaining to a shop with respect to which they were already in litigation and impugned complaint had been preferred by the petitioner as a counterblast to the said civil litigation and that

too without providing sufficient details with respect to the occurrence and alleged stolen articles.

- 06.** The petitioner has taken an exception to the observations of learned trial Court, primarily on the ground that trial Court has jumped to the conclusion that impugned complaint had been filed by him as a counterblast to the civil litigation, whereas relevant documents placed on record by him escaped the attention of the trial Court.
- 07.** Having heard learned counsels for the parties, I have carefully gone through the record.
- 08.** Inherent Power of the High Court to prevent the abuse of the process of any Court or to secure the ends of justice and prevent miscarriage of justice is well defined and cannot be exercised in an arbitrary fashion. It is well settled that inherent jurisdiction of High Court is saved to achieve the salutary public purpose that a Court proceeding ought not be permitted to denigrate into a weapon of harassment or persecution. Therefore, the very plenitude of the extraordinary or inherent power requires greater caution in its exercise and Court must be careful to ensure that its pronouncements are based on sound principles of law.
- 09.** Allegations of the petitioner, in the impugned complaint, are that respondents No.1 & 2 in furtherance of common criminal intention committed theft in his shop after breaking wall of the shop from inside, removed all the articles lying there and accused No.3, an auto driver, transported the stolen goods at their instance. Pertinently, the petitioner, before filing the impugned complaint had preferred a complaint to SHO Police Station, Jhajjar Kotli, in which it was

alleged that some 1 to 2 months ago, someone had informed his son on mobile that during night hours, some persons entered into his shop by breaking the wall from inside, adjoining his shop and stolen the valuable items of his shop. It was further alleged that on 05.09.2021, again some persons informed the petitioner that some persons after breaking the walls of his shop during the intervening night of 4/5.09.2021 had stolen all the remaining items lying in the shop.

- 10.** Excerpts of both the complaints filed by the petitioner; in the Police Station and impugned herein, even on first blush would show that petitioner has leveled omnibus allegations against the respondents without providing necessary details with respect to the date of occurrence and alleged stolen articles. Notably, in the complaint filed in the Police Station, petitioner mentioned about two occurrences. According to the petitioner, some 1 to 2 months ago, someone telephonically informed his son that during the intervening night some persons entered into his shop by breaking the wall from inside and stole the valuable items lying there. He further alleged that on 05.09.2021 again some persons informed him that some persons had broken the walls of his shop during the intervening night of 4/5.09.2021 and stole the remaining items lying in the shop. The petitioner neither disclosed the date on which his son was telephonically informed about the first occurrence of 1 to 2 months ago nor furnished the detail of stolen articles from his shop. He did not mention that whether he took any action regarding the said occurrence or not. Again in the impugned complaint, neither petitioner has mentioned about the date of occurrence nor the detail of

articles alleged to have been stolen from his shop. It is evident, as such, from a bare perusal of both the complaints that petitioner made vague and omnibus accusations against the respondents.

11. Criminal law cannot be allowed to be used as an instrument of oppression in the hands of unscrupulous litigants to wreck vengeance and settle private vendetta. Nobody can be allowed to make an attempt to stretch the contours of a civil dispute and impart it a criminal texture. If contents of the impugned complaint are carefully glanced in the light of attending circumstances emerging from the record, it is manifest that a pure civil dispute is sought to be camouflaged and given a criminal texture with a veiled object of persecution of the respondents, which is not permissible in law.
12. For the foregoing reasons, the impugned order is found lucid and well reasoned. Hence, present petition is **dismissed** and impugned order is upheld.
13. *Disposed of* along with connected application(s).
14. Interim direction, if any, shall stand vacated.

(Rajesh Sekhri)
Judge

Jammu
09.04.2026
Eva

Whether the judgment is reportable?
Whether the judgment is speaking?

Yes
Yes