



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

CRM(M) 461/2025CrM(1109/2025)

Reserved on : 10.03.2026

Pronounced on : 30.03.2026

Uploaded on : 31.03.2026

Whether the operative part or full
judgment is pronounced: Full

GULZAR AHMAD GANIE AND ORS.

Appellant(s)/Petitioner(s)

Through: Mr. Asif Bhat, Advocate &
Mr. Arshid Bashir, Advocate

Vs.

**UNION TERRITORY THROUGH POLICE STATION
RAM MUNSHI BAGH AND ANR. (HOME)**

Respondent(s)

Through: Mr. Faheem Nisar Shah, GA (R-1)
Mr. Sajad Ahmad Mir, Advocate with
Ms. Ifra Milad, Advocate (R-2)

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

JUDGMENT

1. By this petition, filed in terms of Section 528 BNSS, the petitioners are praying for quashing the FIR No. 40/2025 of Police Station, Ram Munshi Bagh, Srinagar, registered for the commission of offences punishable in terms of Sections 74, 115(2) and 351(2) BNS as also the consequential proceedings initiated against the petitioners. The petitioners have also prayed that respondents be directed not to harass them. The above said relief is sought by the petitioners on the grounds taken in the body of the petition.

BRIEF FACTS:

2. A criminal complaint is stated to have been filed by the respondent No. 2 against the petitioners before Police Station, Ram Munshi Bagh, Srinagar, alleging therein that the petitioners had manhandled, abused and beaten up respondent No. 2 on 29th May, 2025, at Rose Enclave, Shivpora, Srinagar, as she raised an objection on parking of vehicles of the petitioners in front of the main gate of her residential house. Another complaint filed on the same day at a different time is also stated to have been filed by the complainant/respondent No. 2 *inter alia* alleging therein that the petitioners again used unparliamentary/abusive language and attempted to rape her. On the



basis of the said complaints, a case FIR No. 40/2025, came to be registered against the petitioners for the commission of offences punishable in terms of Sections 74, 115(2) and 351(2) BNS. There is one more compliant on the basis whereof the police concerned had registered case FIR No. 44/2025 against some of the petitioners for commission of offences punishable in terms of Sections 76, 115(2), 351(2) and 191(2) BNS and initiated the inquest proceedings. During the currency of investigation, the petitioners moved an application for grant of anticipatory bail on 13.06.2025 before the court of learned 3rd Additional Sessions Judge, Srinagar, who upon consideration of the matter granted interim bail in favour of the petitioners in terms of order dated 26.06.2025.

3. Upon consideration of the matter, this court while issuing notice to the respondents in the main petition as well as in the interim application, in terms of order dated 06.08.2025, directed that the police concerned shall conclude the investigation but shall not file the charge sheet besides directing the Investigating Officer of the case not to take any unwarranted coercive measures against the petitioners.
4. Subsequent thereto, the respondents appeared and filed their reply. Respondent no. 2 also filed an application seeking vacation of the direction contained in order dated 06.08.2025. Thereafter, the Investigating Officer, ASI Bashir Ahmad, made a submission in the court, while appearing in person, that petitioners are not cooperating with investigation and the court granted liberty to the Investigating Officer to approach this court for appropriate orders in case the petitioners fail to cooperate with him.
5. Thereafter on 27.01.2026, the learned counsel for the petitioners, (wrongly shown as learned counsel for respondent in the order), had sought adjournment through a vice counsel and the matter was adjourned with the direction that in case the learned arguing counsel does not appear on the next date of hearing, the matter shall be considered on the merits, in his absence.
6. Subsequent thereto, the respondent No. 2/complainant had moved an application stating therein that the accused/petitioners have repeated the offence after obtaining an interim bail and they are continuously harassing her. The complainant had further asserted in her application



that she apprehends that she may be met with some untoward incident if they are allowed to be on bail.

7. The trial court, upon perusing the CD file and upon hearing arguments on 25.09.2025, came to the conclusion that the petitioners do not deserve the concession of bail, therefore, rejected the anticipatory bail application of the petitioners.
8. I have heard learned counsel for the parties, perused the CD file and the other relevant records minutely.
9. At the very outset, it needs to be emphasized that the jurisdiction vested with this court in terms of Section 528 of the BNSS has consistently been held to be exercised cautiously, carefully, and sparingly. The jurisdiction under Section 528 BNSS can be pressed into service only in the following circumstances:
 - I. In order to give effect to any order passed under BNSS.
 - II. To prevent abuse of process of court.
 - III. To secure the ends of justice; and
 - IV. To prevent miscarriage of justice.
10. The bare glance of the above reflected exceptions would make it absolutely clear that this court has not to function as a court of appeal or revision but has to confine itself within the contours of the exceptional situations as described hereinbefore.
11. The case in hand, on the face of it, seeks to challenge the validity of the FIR No. 40/2025, lodged against the petitioners at the instance of the respondent No. 2/ complainant *inter alia* on the grounds that the allegations contained in the complaint, on the basis whereof the FIR in question has been registered, are baseless, aimed at to harass, humiliate and falsely implicate the petitioners; the allegations made in the complaint are fabricated, highly exaggerated and inherently improbable, lacking any corroborative material or factual basis; the petitioners are respectable citizens of the society and have not done any such act as would demand a criminal legal action against them; the respondent No. 2, by filing the complaint against the petitioners, is actually trying to settle scores with them as earlier in time some verbal altercation has taken place between the petitioners and the respondent No. 2; the respondent No. 2/complainant is habitual of creating scenes in the society and in the whole locality is fed up with her acts; the



petitioner No. 1 is a reputed Sufi Singer having earned many awards including the one given by the president of India; the FIR in question is registered in a gross abuse of the criminal justice system having been set into motion only to pressurize and intimidate the petitioners; the respondent No. 2 has attempted to convert a civil party issue into a criminal prosecution which is impermissible in law; no prima facie offence is made out against the petitioners even if the allegations in the FIR are accepted in its entirety.

12. Upon being presented, the instant petition came up for consideration before this court on 06.08.2025 and this court, while issuing notice to the other side, passed certain directions in the matter. It would be profitable to reproduce the operative portion of the order herein:

“In the meantime, subject to any vacation or modification upon the consideration of objections/arguments, and till the next date of hearing before the Bench, respondent No. 1 while being at liberty to proceed with the investigation in the impugned case FIR, shall not, however, present the final report/challan in terms of Section 173 BNSS, if any, contemplated, before the competent court.

The respondent No.1/Investigating Officer of the case is also directed not to take any unwarranted coercive measures during the investigation of the case, against the applicants/petitioners.”

13. The incident in question dates back to 29.05.2025, the investigation is complete but the *challan* could not be presented by the police before the competent court of law because of the order dated 06.08.2025, passed by this court in the instant petition.
14. As would appear from the above described position, the petitioners are seeking quashing of the FIR and the consequent proceedings initiated thereupon on the grounds as taken note of hereinbefore, however, it requires to be seen as to whether any of the four circumstances/situations, as pointed out in the preceding paragraphs, is disclosed? The answer is in negative as none of the ingredients, as are required to be established for pressing into service the extraordinary jurisdiction of this court under Section 528 BNSS, are fulfilled so as to warrant interference of this court.



15. It appears from the perusal of the CD file that the police concerned have dealt with two separate complaints by way of a single FIR, (FIR no. 40/2025), being related to a similar kind of activity, after having been merged for investigation purposes. One more FIR No. 44/2025 is also registered at the instance of the complainant against some of the petitioners.
16. The learned counsel for the petitioner, during the course of arguments, has mainly and vehemently laid stress on the merger of the complaints being bad in law and sought quashing of the FIR and the consequent proceedings initiated thereupon on the said premise only. Based on the said submission learned counsel for the petitioners is seeking to quash FIR and the consequent proceedings initiated thereupon, while referring to the judgment of the Supreme Court passed in Criminal Appeal arising out of SLP(Criminal) No. 13751-13752 of 2023, titled "*Khursheed Ahmad Chohan vs Union Territory of Jammu and Kashmir & Ors. Etc*".
17. Learned counsel for respondent No. 2/complainant has, on the other hand submitted that the merger of FIRs is quite permissible in law, more particularly when both the FIRs pertain to and relate to similar kind of activities. In this connection, the learned counsel referred to the judgments of the Supreme Court delivered in Criminal Appeal No. 903 of 2022 (Arising out of SLP (CRL.) No. 6548 of 2019 titled "*Ms. P^lxxx Vs. State of Uttarakhand & Anr*", reported as 2022 Livelaw (SC) 554 and Criminal Appeal No. 689 of 2001 reported as 2001 6 SCC 181 titled "*T. T. Antony etc. etc. Vs. State of Kerala & Ors. Etc*" and prayed for dismissal of the instant petition.
18. At the cost of repetition, it is stated that the genesis of the FIR sought to be quashed by the petitioners lies in the complaint filed by respondent No. 2, who has alleged in her complaint many serious allegations against the petitioners. There is a statement of complainant/ respondent no. 2, given before the Judicial Magistrate 1st Class, forming annexure with her reply that explains an alleged inhumane act of the petitioners towards respondent no. 2. These events have taken place in the month of



May, 2025, almost a year has elapsed from the date of filing of the complaint till today, however, nothing substantial has been done, so much so that the petitioners/accused have not even been questioned by the police despite there being no restraint issued by this court to the police concerned and despite there being a rejection order of anticipatory bail application dated 29.09.2025, passed by the court of learned 3rd Additional Sessions Judge, Srinagar.

19. As stated in the preceding paragraphs, the instant petition does not disclose any of the ingredients that would warrant exercising extra ordinary jurisdiction vested with this Court under Section 528 of BNSS. In fact, the instant petition appears to be more an attempt to raise extraneous issues. However, the court must remain focused on the real controversy and cannot permit overshadowing or to obscure the core question for determination. The submissions advanced by the learned counsel for the petitioners appear to obfuscate the real issue, rather than assist in its determination.
20. This Court is of the considered opinion that the material placed on record, and that forming part of the case diary, does warrant that the criminal case must proceed against the petitioners without any further unnecessary delay. It would be quite pertinent to mention here that this Court, in terms of order dated 06.08.2025, had only directed the respondent No. 1 not to take any unwarranted coercive measures during the investigation of the case, against the applicants/petitioners. However, it does not, by any stretch of imagination, would mean that the petitioners, after having been named in the FIR, having allegedly committed one of the most heinous offences, would enjoy an absolute immunity to the course of law unjustifiably.

It is observed that, on certain occasions, the purport of the judicial orders suffers due to inadvertent misinterpretation or incomplete understanding of court orders by the concerned police functionaries as has happened in the instant case. The police have taken its hands off



completely, presumably, by misinterpreting the order passed by this Court.

21. It would certainly be a travesty of justice in case *challan* is not allowed to be presented in the case for any further time, as already lot of time has been made to waste unnecessarily by the petitioners for such course to be adopted.

The investigating agency is reminded, in unequivocal terms, that the majesty of law admits no distinction based on the stature, influence, or standing of the accused, and it is therefore incumbent upon the police to always proceed and deal with the cases strictly in accordance with law, guided solely by evidence and fairness, uninfluenced by any extraneous considerations whatsoever. The CD file produced by the learned counsel for respondent no. 1 does not inspire confidence that the investigation has remained wholly insulated from extraneous considerations, and gives rise to a reasonable apprehension that factors other than the merits of the case, possibly including the stature of the accused, may have weighed in impeding a prompt and impartial course of action. Law does neither differentiate nor discriminate. Equality before law is not a mere constitutional slogan but a binding mandate, and any discernible hesitation in pursuing the matter with the promptitude it deserves inevitably invites the inference that the investigative agency has not remained entirely impervious to the standing or influence of the persons involved.

22. Having regard to what has been said hereinbefore, the petition is found to be without any merit, therefore dismissed, along with connected CrIMs. Interim direction shall stand vacated. The police concerned is directed to present the *challan* before the competent court of law without any further delay. The Trial Court shall proceed ahead in the matter without getting influenced by any of the observations and/or findings recorded by this court in any way.

23. There shall, however, be no order as to costs.



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24. A copy of this judgment is directed to be sent to the Director General of Police for information and necessary action at his end.
25. Case Diary file be returned to the learned Government counsel against receipt.

**(MOKSHA KHAJURIA KAZMI)
JUDGE**

SRINAGAR:

30.03.2026

“Misba Sajad”

Whether the Judgment is Reportable? Yes

