



Serial No. 62

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

CRM(M) No.324/2022

Reserved on: 08.07.2026
Pronounced on: 16.07.2026
Uploaded on: 16.07.2026
*Whether the part or full
judgment is pronounced: Full*

Lek Raj Padha, Age 65 years
S/O Dewan Chand,
R/O Tehsil Bani, District Kathua
A/P Manager (Mohtimam)/ Pujari
Thakur Dwara Narsingh Ji Maharaj

.....Petitioner

Through: Mr. L K Sharma, Senior Adv. with
Mr. Mohit Kumar, Advocate.

Vs.

- 1. Union Territory of Jammu & Kashmir**
through Station House Officer,
Police Station, Bani,
Tehsil Bani, District Kathua
- 2. Pranav Sharma,**
S/O not known
R/O A/P Secretary ECS
Anti Corruption Society for UT of JK

..... Respondents

Through: Mr. Suneel Malhotra, GA for R-1
Mr. Harsh Dubey, Adv. for R-2.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

- Through this petition under Section 482 of the Code of Criminal Procedure (akin to Section 528 of BNSS, 2023), the petitioner, seeks quashment of criminal proceedings in FIR No.69/2020 dated 19.11.2020 registered at Police Station Bani, District Kathua, for commission of offence punishable under Section 406 IPC.
- Brief facts, shorn of unnecessary details, as pleaded by the petitioner are:
 - that the petitioner's great grandfather being disciple, had established a Temple of Shri Narsingh Ji Maharaj at Bani and then the ruler of the



State Maharaja Pratap Singh had given land measuring 24 kanals 13 marlas comprising Khasra No.177, 188, 172 and 158 in Sankalp as free grant to the great grandfathers of the petitioner for maintenance of the temple as well as his family; that petitioner is Mohtimum (Manager)/Pujari of the temple of which the managership is hereditary and after the death of the great grandfather Sh. Mani, it was inherited by Sh. Nandu his son as is clear from the copy of the Missal haqiyat for the year 1971-72 Bikrami and after the death of said Nandu, it was inherited by the father of the petitioner Sh. Dewan Chand and after the death of his, petitioner inherited the title of Mohtiumam (Manager)/Pujari of the temple which was also recognized by the Deputy Commissioner vide his order dated 18.06.1991; that the petitioner, his father and his great grandfathers used to cultivate the land and out of the produce were maintaining the temple and also using the surplus of the produce of the land for the maintenance of their family; and

- (ii) that with the passage of time, the expenses for the maintenance of temple escalated and income which derived from the cultivation of the land got difficult to meet day to day expenses; that to augment the income of the temple, the petitioner leased out some portion of the land to different persons and rest of the land is in personal cultivation of the petitioner; that the petitioner constituted a committee of six persons to assist him in running the affairs of temple in the year 2004 and he was elected Chairman of the committee by the members and the committee is maintaining the account of the income and profits received from land of the temple; that the committee also opened a bank account in the name



of temple in J&K Bank Bani which is operated by three members of the Committee including the petitioner and all the money and income received from the cultivation of land and rent received from the tenants after utilizing the same for the land which is used in the maintenance of the temple along with surplus is deposited in the said bank account of the temple.

3. It has been alleged that respondent No.2 started pressurizing the petitioner to give him a chunk of land 'free of cost' and on refusal of the petitioner to cave in to the demands of the respondent No.2, a false case vide FIR No.69/2020 dated 19.11.2020 came to be registered at Police Station Bani at the instance of respondent No.2, on the allegations that the petitioner is misappropriating the income of the temple with criminal intention. Petitioner has assailed the aforestated impugned FIR on the following grounds:

- (i) that the alleged dispute, if any, is purely civil in nature and the respondent No.2 if aggrieved could have availed the proper remedy under civil law and may have approached the competent court of law;
- (ii) That the impugned FIR on the face of it does not disclose any cognizable offence having been committed by the petitioner and hence the impugned FIR is liable to be quashed for being the abuse of the process of law;
- (iii) That the respondent No.2 has concealed the material fact that the managership of the petitioner is hereditary and the land was given



in Sankalp by his highness Maharaja Pratap Singh for the maintenance and welfare of the temple; and

- (iv) That respondent No.2 has no locus to file the FIR as he has no interest in maintenance and running the affairs of the temple in question.

4. Pursuant to notices, reply/objections stands filed on behalf of both the respondents, separately.

OBJECTIONS ON BEHALF OF RESPONDENT No.1

5. In the objections/status report filed on behalf of respondent No.1-SHO concerned, dismissal of this petition is sought on the ground that this Court cannot appreciate evidence/statements which have been recorded by the Investigating Agency in view of the settled law by Hon'ble the Supreme Court; that the scope of interference by this Court in investigation is very narrow therefore, the powers under Section 482 CrPC are to be exercised very sparingly. It is further submitted that on receipt of compliant filed by respondent No.2, FIR No.69/2020 dated 19.11.2020 was registered against the petitioner and investigation in the above referred FIR has been completed and all the accused persons including the petitioner found guilty of committing offence under Section 406 IPC and challan was finalized. However, this court has stayed the production of charge sheet vide its order dated 17.03.2023.

OBJECTIONS FILED ON BEHALF OF RESPONDENT No.2

6. In the objections filed on behalf of respondent No.2/complainant, it is submitted that the petition is not maintainable as it involves disputes questions



of fact; that the impugned FIR discloses cognizable offences; that the petitioner has approached this court with unclean hands and he has suppressed the material facts from court; that the temple property belongs to deity and not to the petitioner; that the court has a duty to protect temple property and that the powers under Section 482 CrPC are to be exercised very sparingly. Lastly, it is averred that the petition be dismissed.

7. Mr. L K Sharma, learned senior counsel appearing for the petitioner argued that the complainant on whose complaint, the impugned FIR has been lodged has no locus standi to file the complaint as he is not aggrieved person; that the land in question is the ancestral land of the petitioner having been given by Maharaja Pratap Singh to the great grandfather of the petitioner for the maintenance and welfare of the temple; that some portion of the temple land was acquired by the govt. for construction of road and some portion of the land has been leased out for rent purpose to have income in order to meet the expenses; that it is only the income from the land of the temple, the temple is being maintained and religious functions are performed; that the impugned FIR is a sheer abuse of process of law and it is finally prayed that the impugned FIR be quashed.

8. Mr. Suneel Malhotra, learned GA appearing for the respondent No.1 submitted that on 19.11.2020, a written application was received by Police Station Bani through dak duly endorsed by SDPO Basohli vide endorsement No.RDR/Clt/2020/2456/SDPO dated 07.10.2020 from complainant namely Pranav Sharma Secretary ECS Anti Corruption Society for UT of J&K, requesting therein that FIR be lodged against the petitioner alleging that he as incharge of Mandir committed illegalities and misappropriated the assets of the



Mandir in connivance with some revenue officials; that on the basis of enquiry made in the complaint, offence u/s 406 IPC was made out and a case vide FIR No.69/2020 came to be registered and investigation of the case got entrusted to SI Rahul Mahajan; that the IO recorded the statement of complainant, got the land in question demarcated, and obtained the report of SDM Bani to DC Kathua; that perusal of report would show that total 25 kanals 12 marlas of land falling under survey No.1521/158, 172, 1519/177, 188 and 1523/297 in village Bani is recorded as owner in the name of owned by Thakurdwara Narsingh Ji Maharaj Mandir Bani and a large chunk of land has been encroached and residential houses, shops, bounded plots etc have been raised on the said land; that 54 persons were identified as encroachers over the said land; that this court on 01.05.2022 stayed the investigation of the case, which was subsequently vacated on 17.03.2023 with direction to go ahead with investigation but not to lay chargesheet in the competent court of law without leave of this court; that the offences mentioned in the impugned FIR have been proved against the petitioner, during petitioner.

9. Learned counsel for respondent no.2 submitted that the instant petition is not maintainable as disputed questions of fact have been raised in the petition; that the enquiry conducted by SDM Bani unequivocally shows that there is a criminal breach of trust, which requires thorough probe; that the petitioner has concealed the material facts from this court and has misappropriated the temple assets; that petitioner is only the manager of the Temple not the hereditary owner, so the property of the temple vests only in deity not in the Manager; that the petitioner has not come to court with clean hands as he has not whispered about the enquiry report of SDM Bani, who found irregularities and



misappropriation of temple land and income from that, committed by the petitioner in connivance with other persons, therefore, he is not entitled to any discretionary or equitable relief. Lastly, it is prayed that the petition be dismissed.

10. Heard learned counsel for the parties, considered their submissions and perused the file.

11. Perusal of the file would show that Tehsildar Bani vide his office No.253/TB/Gen/OQ dated 05.09.2019 reported that Naib Tehsildar Bani in his report has submitted that One Jai Singh S/O Goru Ram R/O Dhaggar and Daya Ram S/O Thola R/O Gatti are constructing buildings in the said land which they have reportedly taken on rent from Mandir Committee managing the affairs of the temple; that there are similar complaints in the meanwhile regarding malfunctioning of Management Committee especially Mohtimum of Thakurdwara Narsingh Ji Maharaj Mandir Bani, wherein it was alleged that various persons had illegally encroached temple land in active connivance with him (petitioner herein); that it has been alleged that Mohtam Mandir who is caretaker of the temple property, as such, a trustee of the property is himself involved in causing irreparable loss to the temple property of which he is a custodian; that total 25 kanals 12 marlas of land falling under survey No.1521/158, 172, 1519/177, 188 and 1523/297 in village Bani is recorded as owner in the ownership of Thakurdwara Narsingh Ji Maharaj Bani and a large chunk of land has been encroached and residential houses, shops, bounded plots etc have been raised on the said land; that 59 such properties have been identified by the commission in presence of the petitioner; that there are allegation of misuse of offerings of the temple; that the petitioner has failed to



discharge his duties in safeguarding the property of the temple and is, hand in glove, with the vested interests, as such, caused irreparable loss to the temple property.

12. All the allegations such as misappropriation of the temple property in the shape of land, either leased out, or sold or allowed to be encroached upon against the petitioner who is admittedly a Manager of the Thakkurdwara in whose name the land is vested, having been granted by Maharaja Partap Singh, the then Ruler of Princely State of Jammu & Kashmir. Petitioner claims that he has hereditary rights over the Thakurdwara as well as land appurtenant thereto and that he is competent to use the land of the Temple for its maintenance and the management.

13. On the basis of allegations of misappropriation of the Temple property by the petitioner herein and if the complainant or any other person have interest in the preservation of the property of Temple, having regard to the civil nature of the dispute, they could avail the civil jurisdiction either by filing a civil suit or a writ petition before the competent courts instead of filing a criminal complaint in the matter. The complainant instead of invoking civil jurisdiction of the courts has filed a criminal complaint against the petitioner herein on the basis of the accusations that he had misappropriated the Temple property, particularly, land appurtenant thereto for his vested interest and that he has also allowed encroachment of the Temple land by some unscrupulous elements for preservation of the Temple property, the complainant should have approached the competent forum on civil side instead of seeking any criminal action against the petitioner who claims his hereditary rights over not only the management of the Temple but the property attached thereto as well.



14. Having regard to the aforestated discussion, in the considered opinion of this court, this action on the part of the respondents is clearly an abuse of the process of law when the matter is essentially of a civil nature. The inherent jurisdiction of this court has to be exercised very sparingly and cautiously, however, under the given circumstances of the case where there is a clear misuse of the process of law, this court has to step in, to secure the ends of justice.

15. For the foregoing reasons and observations made hereinabove, the petition is allowed and the impugned FIR is hereby quashed.

(M.A Chowdhary)
Judge

Jammu:
16.07.2026
Raj Kumar

