



Serial No. 98

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

CRM(M) No.836/2025

Reserved on: **05.08.2026**

Pronounced on: 12.08.2026

Uploaded on: **12.08.2026***Operative part or**full judgment: Full*

1. **Abdul Gani** S/O Ahmdo Bhatt
 2. Mohd. Sharief, S/O Ahmedo Bhatt
 3. Mehboob, S/O Abdul Gani
 4. Yasir, S/O Mohd. Sharief
 5. Naseer Ahmed S/O Mohd. Sharief
 6. Safoora Begum W/O Mohd. Sharief
- All R/O Nacha, Ganotha Assar,
Tehsil Assair District Ddoa.

.....Petitioners

Through: Mr. N A Gatoo, Advocate.

Vs.

1. **Union Territory of Jammu and Kashmir**
through Senior Superintendent of Police
(SSP) Doda.
2. SHO Police Station, Assar,
District Doda.
3. Mohd. Ashraf S/O Mohd. Ibrahim
R/O Nacha, Ganotha Assar,
Tehsil Assar, District Doda.

..... Respondents

Through: Mr. Adarsh Bhagat, GA for R-1&2.
None for R-3.

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

1. This petition under Section 528 of BNSS, 2023 has been filed by the petitioners, seeking quashment of FIR No. 0025/2025 dated 11.08.2025, for commission of offences punishable under Sections 3(1)(iii), 3(1)(v) and 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Assar, at the instance of respondent No.3, alleging false implication, as such, abuse of process.



2. Brief facts, containing necessary details, as pleaded by the petitioners, in their petition are that on 09.07.2025, a trivial altercation took place between the petitioners 3, 4, and 5, who had gone to a park in Ramgarh for picnic, with complainant and his family members; that later at about 5.00 PM, the complainant and his family members came to the shop of the petitioner No.1, situated in the main market of Bagger (Ramgarh), where, petitioners 3, 4 and 5 were also present, assaulted them with lathis, stones and a *toka* causing serious injuries, who were thereafter taken to PHC Assar for medical treatment; that petitioner no.1, who happens to be father of petitioner no.3 and uncle of petitioners 4 and 5, on the same evening, lodged a written complaint regarding the incident; that the SHO concerned, after taking cognizance of the matter, registered the case vide FIR No.0019/2025 dated 09.07.2025 under Sections 109/190, 126(2), 115(2), 125/191(2), 352/351(2), 324(4)/191(3) of BNS and Section 4/25 of the Arms Act against Asif, Danish, Arif, Jaffer, Imtiaz, Jameel, Latif and Akhter; that the said accused approached the court of learned District Judicial Mobile Magistrate (Traffic) Doda, by way of applications for grant of bail, who, vide common order dated 29.07.2025, granted bail, subject to the conditions enumerated therein.

3. Further allegation is that after lapse of one month of the incident, respondent no.3, along with his family members, approached the Senior Superintendent of Police (SSP), Doda and submitted a written complaint seeking lodging of an FIR against the petitioners for the same incident that occurred on 09.07.2025; that pursuant to said complaint lodged by the respondent No.3/complaint, the impugned FIR was registered against the petitioners for commission of offences punishable under Sections 3(1)(iii), 3(1)(v), and 3(1)(x) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the petitioners.



4. In the afore-stated factual background and aggrieved of the aforesaid FIR, present petition has been filed by the petitioners, seeking its quashment, assailing the same on following grounds:

- (i) that the impugned order is bad both on facts and law;
- (ii) that the impugned FIR is a counter blast to earlier FIR lodged by the petitioners;
- (iii) that the impugned FIR is a clear abuse of the process of law;
- (iv) that the impugned FIR has been lodged to wreak vengeance and harass the petitioners and to tarnish their image in the society; and
- (v) that the allegations made in the impugned FIR do not *prima facie* disclose a cognizable offence, therefore, same be quashed.

5. Pursuant to notices, status report stand filed on 23.04.2026 by respondents no.1 and 2, stating, inter alia, that on 11.08.2025, respondent No.3/complainant lodged a written complaint alleging therein that on 09.07.2025 at 5.00 PM, when their children went to a local shop to purchase items, Abdul Gani Bhatt with around 10 other individuals abused them with caste based slurs; that petitioner No.3 took a butcher knife from the shop and attempted to attack the children; that petitioners removed the clothes of one Asif Hussain Bakerwal S/O Akhter Hussain and beat, slapped and abused him because of he being a Bakerwal and emitting foul stench, and he was admitted to GMC Doda for two days; that petitioner No.6, who works as a cook at Govt. Middle School Necha also passed caste remarks and preached them not to attend the school, being Bakerwals and also humiliated them by saying they are bad smelling; that on the complaint lodged by respondent No.3, impugned FIR was lodged against the petitioners and the investigation got entrusted to Dy. SP, DAR District Doda; that during investigation, the IO visited the place of occurrence and prepared the site plan, recorded the statements of eye witnesses U/S



180 BNSS through eSakshya app, who corroborated the contents of the complaint; that, the IO further recorded the statements of 17 independent witnesses, some of them belonging to the Scheduled Tribe category, who did not corroborate the statements of the eye witnesses recorded earlier; that the statements of 08 complainants/witnesses, whose signatures are appended on the written complaint were also recorded, which claimed no knowledge that the complaint contains allegations attracting provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; that with regard to same incident, FIR No.19/2025 U/Ss 126(2), 115(2), 191(2), 352, 351(2), 324(4), 191(3) BNSS has been registered at the instance of the petitioners against the complainants/victims; that as per statements of independent witnesses, offences under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have not been proved, however, statement of 15 complainants/witnesses are yet to be recorded.

6. Respondent No.3, despite service, has chosen not to contest the matter, as neither there is any representation on his behalf nor any reply has been filed, though some counsel had appeared on his behalf earlier.

7. Learned counsel for the petitioners would argue that the impugned FIR lodged by the complainant against the petitioners is sheer abuse of process of law, as is evident from the status report submitted by Investigating Officer before this court; that the impugned FIR has been lodged by the complainant as a counter blast to the FIR lodged at the behest of the petitioners; that the allegations made in the impugned FIR are only to tarnish the image of the petitioners in the society. Lastly, it is prayed that the writ petition be allowed and the impugned FIR be quashed.



8. Mr. Adarsh Bhagat, learned Government Advocate appearing for the respondents 1 and 2, argued that the petitioners have raised disputed questions of facts which are serious triable allegations, which cannot be adjudicated upon by this Court, under its extraordinary jurisdiction. He further submits that power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. He further submits that the present case does not fall within any of the exceptional categories laid down in Bhajan Lal's case warranting interference; that the complaint discloses commission of cognizable offences; that the contentions raised by the petitioners cannot be examined in proceedings under Section 528 BNSS, so as to appreciate evidence, determination of credibility of witnesses and adjudication of disputed facts are matters exclusively within the domain of trial court; that the status report filed by the Investigating Officer, perusal whereof, would show that the investigation is still going on as statements of as many as 15 independent witnesses are yet to be recorded and efforts are being made to do the needful at the earliest. Lastly, it is prayed that the writ petition be dismissed.

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

10. Respondent No.3 moved a complaint to SSP Doda, with regard to an incident/occurrence, which was reported to have taken place on 09.07.2025. On the basis of that complaint, a case was registered vide impugned FIR. It appears that FIR would not have been lodged at the local Police Station, as a case had been registered against the complainant's family members, at the instance of petitioner no.1, vide FIR No.19/2025 dated 09.07.2025 U/Ss 109/190, 126(2), 115(2), 125/191(2), 352/351(2), 324(4)/191(3) of BNS and Section 4/25 Arms



Act at P/S Assar, and that became the reason for respondent No.3/complainant to approach SSP of the District, for taking cognizance of his complaint.

11. As per the status report filed by the respondents, the investigation of the case registered vide impugned FIR has been assigned to Dy. SP, DAR Doda, and that all the eye witnesses, whose statements were recorded, had corroborated the contents of the complaint, however, it was claimed that he had recorded statement of 17 independent witnesses, who did not corroborate the statement of the eye witnesses recorded earlier and that the statements of the 8 witnesses, including the complainants whose signatures were appended on the written complaint are yet to be examined; that offences alleged are not proved and that statements of 15 witnesses are yet to be recorded.

12. It appears from the status report that the investigating officer, who is considerably at a senior position, has some other ideas, so as to screen the alleged culprits, as otherwise, it is not the number of witnesses that matters but it is the quality of the evidence and the statement of the witnesses, who may have been present at the place of occurrence and, particularly, those who have supported the complainants version should have been believed, so as to finalize the investigation.

13. It is very surprising that the investigation of the case registered on 11.08.2025 has not been completed till now, which suggests that the investigating officer may not be impartial and may have been proceeding to help the accused as against the complainant party who belong to vulnerable, weak and underprivileged class, for whose protection, the Scheduled Cates and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been promulgated by the Parliament.



14. The contention that there was delay in lodging the FIR on 11.08.2025 with regard to an alleged occurrence having taken place on 09.07.2025, it appears that despite the efforts of the complainant, the FIR was not registered at the local police station which compelled the complainant to approach the SSP Doda with his grievances, therefore, the delay if any cannot be attributable to the complainant, so as to give any benefit to the accused for seeking quashing of the FIR on this ground.

15. Coming to the other contention that complainant and his relatives are also accused in FIR No.19/2025 registered with regard to the same incident having taken place on 09.07.2025 also gives strength to the allegation of the complainant that an occurrence did take place, as such, on this count, as well, no ground made out to seek quashment of FIR.

16. Before parting with the order, with a view that a fair treatment is afforded to the complainant as well as to the accused, SSP Doda and CJM Doda are directed to supervise the investigation of the case and to ensure that investigation is carried out, in accordance with law. Copy of this order shall be forwarded to the SSP Doda and also to learned CJM Doda for compliance.

17. For the foregoing reasons, the petition is found to be without any merit and substance and is liable to be **dismissed**.

(M.A Chowdhary)
Judge

Jammu:
12.08.2026
Raj kumar

Whether the order is speaking?
Whether the order is reportable?

Yes/No.
Yes/No.