HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CRM(M) No. 636/2021

Date of pronouncement:17.11.2026
Date of uploading:19.11.2026

01.Yog Raj, Aged 66 Years ….. Petitioner(s)/Appellant(s)
S/o Late Sh. Chandu Lal

02.Om Raj, Aged 68 Years, S/O
Soba Ram

03.Disha Devi, Aged 66 Years, W/o
Yog Raj

04.Lekh Raj, Aged 72 Years,
S/o Tej Ram

All residents of Rehri, P.O. Khellani,
Tehsil and District Doda

05. Asha Devi alias Dimple, Aged
41, D/o Om Raj R/o Tondwah,
Distt. Doda

06.Dev Raj, Aged 69 years, S/o Late
Sh. Chandu Lal

07. Pushpa Devi, Aged 64 years, D/o
Dev Raj

08. Sunil Kumar, Aged 36 Years,
S/o Dev Raj

09.Anil Singh, Aged 34 Years, S/o
Dev Raj

All residents of Jangalwar, Paryote,
Tehsil and District Doda.

Through: Mr. Ankush K. Kotwal, Advocate.

vs

01.Union Territory of Jammu and ….. Respondent(s)

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

2026:JKLHC-JMU:357

Kashmir
Through SHO Police Station Doda.

02.Udiya Devi S/o Hazara Singh R/o Paryote, Jangalwar, Tehsil and District Doda-182202.

Through: Mr. Adarsh Bhagat, GA.

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

JUDGMENT
17.11.2026

(**Oral)**

01. Petitioners have invoked inherent jurisdiction of this Court for the quashment order dated 28.09.2021, passed by learned Chief Judicial Magistrate (CJM), Doda under Section 156(3)Cr. P. C. and consequent FIR No. 178/2021 for offences punishable under Sections 447/379/384/354/147/323/504/506 IPC.

02. As factual matrix of the case would unfurl, respondent No. 2 preferred a complaint in the Court of learned CJM, Doda, against the petitioners, alleging, *inter alia,* that petitioners, in furtherance of common criminal intention, entered upon their land covered under Khasra No. 142 situated at Jangalwar, which was under the joint possession of her mother, Smt. Dayawanti Devi and them. They damaged, removed the maize crop, abused and threatened her and her mother. It was also alleged that on 27.09.2021, at about 11:00 a.m., when she, along with her mother and sister-in-law had gone to the aforesaid land for agriculture work, accused Dev Raj and his wife, Pushpa Devi, accused Yog Raj and his wife along with their sons namely Sunil Kumar and Anil Kumar, trespassed upon the land, manhandled her and inflicted injuries. She also alleged that a gold chain

along with a locket was snatched from her and that a hoe (Kudali) and a pickaxe (Gainti) were removed from the spot. The complainant specifically alleged that accused/petitioner Yog Raj tore her clothes and outraged her modesty. The aforesaid complaint was forwarded by learned CJM, Doda to the respondent-police station, whereupon impugned FIR came to be registered.

03. Petitioners are aggrieved of the impugned FIR, primarily on the ground that a civil dispute is sought to be given a criminal colour.

04. Status report has been filed by the official respondent, a perusal whereof reveals that during investigation, statements of independent witnesses were recorded, who stated that there was an ongoing land dispute between Smt. Dayawanti Devi and Om Raj Manhas. An old residential structure belonging to Om Raj Manhas had collapsed, and Dayawanti Devi and complainant were attempting to fence the land. According to the independent witnesses, heated arguments took place between the parties. They specifically stated that no incident of theft or snatching had taken place on the spot.

05. The investigating agency is stated to have obtained medical report of the complainant. As per the medical opinion, the injuries received by the complainant were simple in nature and as per the revenue clarification, the ingredients of criminal trespass were established.

06. A perusal of the status report further reveals that, when statements of further independent witnesses were recorded, during investigation, it came to the fore that no offence had been committed by petitioners Om Raj,

Darshana Devi, Lek Raj, Dimple, Dev Raj, Pushpa Devi, Sunil Kumar, Anil Kumar and Smt. Satya Devi. They were only called to the spot by Om Raj for the purpose of resolving the dispute and were not found to have participated in any criminal act. However, according to the investigating agency, offences punishable under Sections 354, 323, 504, 506 IPC were established against petitioner Yog Raj.

07. A perusal of the statement of facts reveals that relevant documents, including the site plan, statement of witnesses recorded under Sections 161 and 164 Cr. P. C., medical report and revenue report/clarification have been received and investigation stands concluded.

08. Petitioners are aggrieved by the impugned FIR, primarily on the ground that a pure civil dispute is sought to be given a criminal texture, which is impermissible in law.

09. The aforesaid plea has been opposed on the other side by Mr. Adarsh Bhagat, learned GA appearing for the official respondent, on the ground that there is no bar to the prosecution of an accused if offences punishable under criminal law are made out, even where a civil suit is pending between the parties. He has relied upon **Kathyayini vs. Sidharth P.S. Reddy and Ors., Criminal Appeal arising out of SLP(Crl.) No. 1105 of 2024; [(2025) 7 SCR 463]** and **Central Bureau Of Investigation vs. Aryan Singh Etc. Criminal appeal nos. 1025-1026 of 2023 arising out of SLP(Crl.) no. 12794-12795 of 2022 dated 10.04.2023; [2023 LiveLaw (SC) 292]**.

10. There is no dispute to the trite position of law that High Court, in exercise of its inherent jurisdiction, is vested with the power to prevent the abuse of the process of law. However, it is equally settled that investigation of a crime cannot be scuttled at its threshold, if allegations contained in the complaint/ FIR or the material collected during investigation *prima facie* disclose the commission of a cognizable offence.

11. Supreme Court in **Pratibha Rani vs. Suraj Kumar and Anr.;(1985) 2 SCC 370** explained the distinction between civil and criminal remedies.

Relevant abstract of the judgment is extracted below:

> ***"21.There are a large number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrongdoer in cases like arson, accidents, etc. It is an anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and import. It is not at all intelligible to us to take the stand that if the husband dishonestly misappropriates the stridhan property of his wife, though kept in his custody, that would bar prosecution under Section 406 IPC or render the ingredients of Section 405 IPC nugatory or abortive. To say that because the stridhan of a married woman is kept in the custody of her husband, no action against him can be taken as no offence is committed is to override and distort the real intent of the law."***

12. Likewise, Supreme Court, in a similar fact situation, reiterated the aforesaid principles of law in **Kamaladevi Agarwal vs. State of W.B. and Ors.; (2002) 1 SCC 555.**

Relevant observation, reads as below:

> ***"17. In view of the preponderance of authorities to the contrary, we are satisfied that the High Court was not justified in***

> ***quashing the proceedings initiated by the appellant against the respondents. We are also not impressed by the argument that as the civil suit was pending in the High Court, the Magistrate was not justified to proceed with the criminal case either in law or on the basis of propriety. Criminal cases have to be proceeded with in accordance with the procedure as prescribed under the Code of Criminal Procedure and the pendency of a civil action in a different court even though higher in status and authority, cannot be made a basis for quashing of the proceedings."***

13. Again, Supreme Court, after surveying a long line of its decisions rendered from time to time, in **K. Jagdish vs. Udaya Kumar G. S. and Anr.; (2020) 14 SCC 552** has ruled that in certain cases, the very same set of facts may give rise to remedies in civil as well as criminal proceedings.

Relevant excerpt, reads as below:

> ***"8. It is thus well settled that in certain cases the very same set of facts may give rise to remedies in civil as well as in criminal proceedings and even if a civil remedy is availed by a party, he is not precluded from setting in motion the proceedings in criminal law."***

14. Pertinently, Supreme Court in **Central Bureau of Investigation vs. Aryan Singh** (supra) clearly ruled that High Court, while exercising its inherent jurisdiction, is not supposed to conduct a mini trial.

15. It is evident from the aforesaid principles enunciated by Hon'ble Supreme Court that civil and criminal remedies are distinct in their nature and scope and both can co-exist.

16. If we approach the present case in the light of aforesaid principles, it is clear that though civil litigation is pending *inter se* the parties, the investigation conducted so far *prima facie* discloses commission of cognizable offences against petitioner no. 1, namely, Yog Raj, though no offence is found to has been established against the rest of the petitioners.

17. Considered thus, present petition is dismissed.

2026:JKLHC-JMU:357

18. Interim order shall stand vacated and investigating agency shall be at liberty to file final report against petitioner No. 1 in the competent Court.

19. Disposed of, along with connected application(s), if any.

20. Interim direction, if any, shall stand vacated.

(Rajesh Sekhri)
Judge

Jammu
17.11.2026
Sushant

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

Whether the order is speaking? **Yes**
Whether the order is reportable? **Yes**