

(2025) 08 J&K CK 0364
In the Jammu And Kashmir High Court
Case No : CrIM No.2276 Of 2021

Abdul Qayoom

APPELLANT

Vs

UT of J&K

RESPONDENT

Date of Decision : 26-08-2025

Acts Referred:

Indian Penal Code, 1860 — Section 447, 506
Code Of Criminal Procedure, 1973 — Section 156(3), 482

Citation : (2025) 08 J&K CK 0364

Hon'ble Judges : Rajesh Sekhri, J

Bench : Single Bench

Advocate : Adarsh Bhagat

Final Decision : Disposed Of

Judgement

Rajesh Sekhri, J

1. Petitioner is aggrieved of FIR No.216/2020, registered with Police Station, Kishtwar, for offences under Sections 447 and 506 IPC, and the consequent Charge Sheet No.52/2021, pending in the Court of Munsiff, JMIC, Kishtwar [“the trial Court”], as File No.56/Challan, titled, “UT of J&K vs Abdul Qayoom” on the predominant premise that a dispute, which is purely of civil nature, is sought to be given a criminal texture.

2. As factual narration of the present case would unfurl complainant/private respondent on 15.11.2020 preferred a written application, for registration of FIR against the petitioner, stating inter alia that he and the petitioner purchased lands measuring 10 marlas each in Lachkhazana and constructed the houses in their respective shares. The complainant, however, alleged that petitioner had grabbed one marla land from his share and when he enquired, he was threatened with dire consequences. On the receipt of this report, impugned FIR came to be registered and culminated in a charge sheet in the trial Court.

3. The petitioner is aggrieved of impugned FIR and the charge sheet inter alia on

the ground that 10 marlas of land was purchased by the respondent/complainant in the name of his son Ashiq Hussain, who had already filed a civil suit for perpetual prohibitory injunction and restitution of possession of one marla of land, alleged to have been trespassed/grabbed by him, which is subjudice in the Court of Sub Judge, Kishtwar as File No.8/suit, in which he had filed the written statement. However, respondent No.2 filed the written complaint on 15.11.2020 before the official respondent No.1 for the similar relief as the averments of the complaint are in essence ad verbatim the suit. This complaint came to be forwarded by the official respondent no.1 to Sub Inspector Jatinder Singh. The petitioner received a telephonic call from Police Station on 18.11.2020 to attend the Police Station on 19.11.2020. It is contended by the petitioner that he went to the Police Station where the complainant-private respondent No.2 was also present. He informed Sub Inspector Jatinder Singh that dispute is of civil nature and litigation is already subjudice in the civil court, however, he was abused and threatened of dire consequences if dispute was not settled with the private respondent/complainant. It is also alleged by the petitioner that he was made to sit in the police station for the whole day. This incident, according to the petitioner, was also video graphed. It is further contention of the petitioner that as per Roznamcha dated 19.11.2020 the petitioner and respondent No.2/complainant were directed to contest the litigation pending in the civil court. Apprehending detention, the petitioner preferred an application for bail on 20.11.2020 before Chief Judicial Magistrate, Kishtwar, which was transferred to Munsiff, Kishtwar. Police report was called on 22.11.2020 which revealed that no FIR had been registered against the petitioner; as such bail application was consigned to records.

4. It is contention of the petitioner that he preferred a complaint before the official respondent No.1, against Sub Inspector Jatinder Singh and private respondent/complaint for wrongful confinement and criminal intimidation extended to him. However, no action was taken on the complaint so made by him, which constrained him to approach the magisterial court under Section 156

(3) CrPC and learned CJM, Kishtwar vide order dated 27.11.2020 directed respondent No.1 to conduct preliminary inquiry to ascertain whether a cognizable offence was made out or not. It is alleged by the petitioner that after receiving the aforesaid order of learned CJM, Kishtwar, impugned FIR came to be registered against him.

5. According to the petitioner, the contents of impugned FIR do not disclose the commission of any offence against him and a dispute purely of civil nature is sought to be given a criminal colour and private respondent has lodged impugned FIR against him to feed fat the grudge.

6. The plea has been opposed on the other side by the official respondent, primarily on the ground that investigation of the impugned FIR has already culminated in the charge sheet against the petitioner as offences were made out against him.

7. Having heard learned counsel for the parties, I have gone through the record.
8. It is settled law that this Court in exercise of inherent jurisdiction, under Section 482 Cr.P.C., or 528 BNSS, cannot embark upon a detailed inquiry or a mini trial regarding the genuineness or otherwise of the allegations made in a complaint or FIR and this power is to be exercised sparingly and with caution. Investigation cannot be stifled at the threshold. The disputed questions of fact raised by an accused are required to be proved by him, by way of defence in a full-dressed trial. However, nobody can be allowed to stretch the contours of a civil dispute to give it a criminal texture. This Court, as such, is vested with the power to prevent the abuse of the process of any Court or otherwise to secure the ends of justice.
9. If the present case is approached with the aforesaid principle of law, the only allegation against the petitioner is that he and the private respondent/complainant each purchased 10 marlas of land and constructed their respective houses, on their respective lands. The allegation against the petitioner is that he grabbed one marla of land of the complainant and when the complainant enquired, he was threatened with dire consequences.
10. The copy of the civil suit, filed by son of the private respondent, namely Ashiq Hussain reveals that he filed a suit for perpetual prohibitory injunction against the petitioner and his wife with respect to the subject land, which is pending adjudication in the Court of Sub Judge, Kishtwar. The complainant did not disclose the pendency of said suit, filed by his son in the complaint preferred by him, on the basis of which impugned FIR came to be lodged against the petitioner. Even when the petitioner was called by the official respondent in the police station, an entry was made in the Roznamcha on 19.11.2020 whereby parties were directed to settle their civil dispute. If the allegations contained in the FIR, impugned in the present petition, are carefully glanced over, there is no doubt that a dispute which is purely of civil nature, is sought to be given a criminal texture which is an abuse of the process of law.
11. For the foregoing reasons, the present petition is allowed and the impugned FIR and the consequent charge sheet, pending in the trial Court as File No.56/Challan, titled, "UT of J&K vs Abdul Qayoom", are quashed.
12. Disposed of with connected CrIMs.
13. Interim direction, if any, shall stand vacated.