



IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRMC No. 503/2015

Reserved on: 27.02.2026
Pronounced on : 06.03.2026
Uploaded on : 06.03.2026
Whether the operative part or full
judgment is pronounced: Full

Kusum Bhatia & anr

....Petitioners

Through:- Mr. Amit Gupta, Advocate.

V/s

Master Sumdeep Singh

.....Respondents

Through:- None

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
JUDGMENT

सत्यमेव जयते

01. The petitioners have challenged the complaint filed by the respondent against them before the court of learned Chief Judicial Magistrate, Jammu (for short, '**trial Magistrate**') alleging commission of offences under Sections 323/341/506 RPC. Challenge has also been thrown to order dated 14.10.2015 whereby the learned trial Magistrate has taken cognizance of offences and issued process against the petitioners.

02. As per the impugned complaint, the respondent was studying in Shanti Swaroop Memorial Public Higher Secondary School, Subash Nagar, Jammu in 10th standard at the relevant



time. When he went to see his friend Anmol Raina, who was lying admitted in Hospital at Sarwal Jammu, the petitioners got furious and threatened him with dire consequences and also pressurized him to make a false statement to save the teacher, namely, Sh. Mohit Sharma, who had beaten up the friend of the respondent, namely, Anmol Raina. It is further alleged that on next day i.e., 5th of October, 2015 when the respondent went to the school to take half yearly examination, the petitioners again threatened him with dire consequences in case he does not make a statement favourable to teacher before the police.

03. It is alleged that petitioner No. 1 slapped the respondent thrice on his face whereas, petitioner No. 2 caught hold of him by his hair and gave beating with fists and blows, which resulted in injuries to him. It is further alleged that the respondent was wrongfully confined and was allowed to go to his home only at 01.00 pm. He narrated the incident to his mother and when police refused to lodge any report, they filed the impugned complaint before the learned trial Magistrate who, after recording the statements of the respondent and his mother, proceeded to take cognizance of offences and issued process against the petitioners.

04. The petitioners have challenged the impugned complaint and the order whereby process was issued against them by the learned trial Magistrate on the ground that allegations made in the complaint are absolutely false and frivolous. It has been submitted that the petitioner No. 1 is



Principal of the school whereas, petitioner No. 2 is the Vice Principal of the school and because the respondent, who was a student of the school, was a habitual absentee, as such, action under rules was warranted against him. It is being contended that respondent, in order to coerce the petitioners not to take any action against him, has filed the impugned complaint. The petitioners have placed on record a copy of the attendance register, which reflects that respondent has rarely attended his classes. It has also been contended that the issue between teacher Sh. Mohit Sharma and student Mr. Anmol Raina has amicably been settled and, therefore, there was no occasion for the petitioners to pressurize the respondent to make a false statement before the police. A copy of the compromise alleged to have been executed by Sh. Mohit Sharma and Anmol Raina has also been placed on record.

05. The respondent despite service has chosen not to appear.

06. I have heard learned counsel for the petitioners and perused record of the case including the trial court record.

07. Learned counsel for the petitioners has laid much emphasis on the contention that if at all the petitioners have slapped the respondent, no oblique motive can be attributed to them as they have done it in the capacity of a teacher to counsel a student, who was a habitual absentee. It has been contended that a teacher in the course of imparting education beats a student with a bonafide intention to maintain discipline and that as a teacher, he/she has given the implied



consent of the parents of the student to enforce discipline on the pupil for the welfare of the pupil and that this authority vested in a teacher flows from the common law principle of *loco parentis*. He has further contended that the learned trial Magistrate while issuing process against the petitioners has not followed the procedure prescribed under Section 200 of the J&K CrPC.

08. Before coming to the contention of the petitioners that alleged action of the petitioners is saved by the principle of *loco parentis*, it would be appropriate to deal with the contention of the learned counsel for the petitioners that provisions of Section 200 of the J&K CrPC have not been complied with by the learned trial Magistrate. For this purpose, it is necessary to have a look at the provisions contained in the said provision, which is reproduced as under:

“200. Examination of complainant.—A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses and also by the Magistrate:

Provided as follows—

(a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under Section 192;

(b) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;

(c) when the case has been transferred under Section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.”



09. From a perusal of the aforesaid provision, it is clear that a Magistrate taking cognizance of an offence on a complaint has to immediately examine the complainant and the witnesses present, upon oath and the substance of the examination has to be reduced to writing, which has to be signed by the complainant and the witnesses and also by the Magistrate.

10. If we have a look at the trial court record, it appears that the complaint has been made by mother of the respondent, Smt. Anamika and it is signed only by her. Thus, she is the complainant in the present case whereas, respondent Sumdeep Singh has been cited as a witness in the complaint. It is pertinent to note that respondent, at the relevant time, was a minor person aged about 15 years. The record shows that the learned trial Magistrate has recorded the statement of Smt. Anamika without administering oath to her whereas, statement of respondent Sumdeep Singh has been recorded on oath.

11. Section 200 of J&K CrPC mandates that the complainant has to be examined on oath but in the present case, the learned trial Magistrate has omitted to administer oath to the complainant. Thus, provisions contained in Section 200 of J&K CrPC have been observed in breach. On this ground alone, the impugned order whereby cognizance of offences has been taken and process has been issued against the petitioners deserves to be set aside.



12. In view of above, without going into the merits of the contention of the petitioners with regard to their authority to discipline respondent being a student of their school, this Court deems it appropriate to set aside the impugned order dated 14.10.2015 passed by the learned trial Magistrate whereby process has been issued against the petitioners and remand the case for examination of the complainant afresh in accordance with the provisions of Section 200 of J&K CrPC.

13. Accordingly, the petition is allowed and impugned order dated 14.10.2015 is set aside. The matter is remanded to learned Chief Judicial Magistrate, Jammu with a direction to record the statement of the complainant on oath afresh strictly in accordance with the mandate laid down under Section 200 of J&K CrPC and thereafter proceed in the matter in accordance with law. Since the respondent/complainant has not appeared before this Court, as such, the learned trial Magistrate shall, before proceeding further in the matter, serve notice upon the respondent/complainant.

14. Disposed of accordingly.

**(SANJAY DHAR)
JUDGE**

JAMMU
06.03.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **No**

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