

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

CRM(M) No.212/2020

MUBEEN AHMAD SHAH

...PETITIONER(S)

Through: None.

Vs.

UT OF J&K AND OTHERS

...RESPONDENT(S)

Through: Ms. Nadiya Abdullah, Assisting Counsel.

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

ORDER(ORAL)
20.05.2025

1. On the last date of hearing, learned counsel for the petitioner had submitted that he does not have instructions to appear in this case. Today none has appeared on behalf of the petitioner.
2. Through the medium of present petition, the petitioner has challenged FIR No..71/2020 for offences under Section 153, 153-A, 505, 506 of IPC registered with Police Station, Ram Munshi Bagh, Srinagar.
3. As per the allegations made in the impugned FIR, the petitioner is alleged to have uploaded threatening Facebook posts against the non-locals living in Kashmir. It is also alleged in the impugned FIR that the petitioner is instigating

village/Mohalla/Town Committees of Kashmir to socially boycott all those who are giving space and land to non-locals and he is instigating general public against members of the administration who are found issuing domicile certificates to non-Kashmiri/non-locals. It is further alleged that the petitioner has been uploading many objectionable posts with an intention to instigate one community against other thereby disturbing the prevailing peace.

4. The main ground urged by the petitioner in his petition for impugning the aforesaid FIR is that the contents of the impugned FIR do not disclose commission of any offence against him.

5. If we have a look at the impugned FIR and the copies of Facebook posts which have been annexed by the respondents with the status report, it is manifest that these posts have the tendency of promoting enmity between different groups on the grounds of place of birth and residence and these posts are highly prejudicial to the maintenance of harmony. In one of the posts, the Village/Mohalla/town committees of Kashmir have been instigated to come together to make sure that not a single non-local lives in their areas. They have been asked to ensure that all non-Kashmiris leave Kashmir. The post contains threats to the officers who issue domicile

certificates to non-Kashmiris and call for social boycott of such individuals has also been given in the said post. The post goes on to instigate Kashmiris to collectively fight against settler colonialism.

6. Another post, which is annexed as Annexure-II to the status report filed by the respondents, contains a call for boycotting India, Indian companies and to initiate movement against India. In the said post, it has been stated that by doing so, India will give up Kashmir.

7. From a bare reading of the aforesaid posts, one does not have to think twice before coming to the conclusion that these posts have the tendency of promoting enmity between Kashmiris and other people living in the Country. It is also clear from the language of these posts that the same have the tendency of undermining sovereignty and integrity of the Country. The posts are bluntly prejudicial to the maintenance of harmony between various communities and these are likely to disturb public tranquillity. Thus, it cannot be stated by any stretch of reasoning that these posts do not constitute any cognizable offence, as has been contended in the petition.

8. The other ground that has been urged by the petitioner is that the URL (Uniform Resource Locator), as mentioned in the impugned FIR, does not lead to any post ascribed to the

petitioner. This aspect of the matter can be ascertained during investigation of the case and at this stage and in these proceedings, it is not open to this Court to hold a mini-trial so as to determine whether or not the URL, as mentioned in the FIR, is attributable to the petitioner.

9. There is yet another aspect of the matter which needs to be noticed. The instant petition came to be filed by the petitioner during Covid-19 Pandemic, when filing and hearing of the cases in this Court was permitted through virtual mode in terms of Circular No.16-GS dated 29.03.2020. In terms of the said Circular, the litigants were permitted to file hard copies of the petition, court fee and original documents after resumption of normal functioning in the courts. In the present case, the petitioner has not filed the original petition duly signed by him after resumption of normal functioning of the courts. Even the original Vakalatnama has not been filed on behalf of the petitioner.

10. A perusal of the copy of the affidavit annexed to application for grant of interim relief would reveal that the petitioner at the time of swearing the said affidavit was stationed in Malaysia and not in Jammu and Kashmir. The affidavit is not attested by the competent authority. In fact, it is not attested by any authority at all. Even after resumption of normal functioning of the Courts, the

petitioner has not submitted a duly attested affidavit in support of the petition and the application. On this ground also, the instant petition cannot be entertained.

11. For the foregoing reasons, I do not find any merit in this petition. The same is dismissed accordingly.

(Sanjay Dhar)
Judge

Srinagar
20.05.2025
"Bhat Altaf-Secretary"

Whether the order is reportable: Yes/No

