

Sr. No. 61

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) No. 367/2024

Umar Sahib alias Umar son of Abdul Gani
resident of Vill. Changran, Tehsil and District Kathua.

...Petitioner/Appellant(s)

Through:- Mr. Rohit Verma, Advocate

V/s

1.Union Territory Of Jammu and Kashmir
through Senior Superintendent of Police, District Kathua.

2. Station House Officer, Kathua.

.....Respondent(s)

Through: Mr. Suneel Malhotra, GA
I.O present in person

CORAM :
HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGMENT

30.09.2025

1. The petitioner has invoked the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, seeking quashing of FIR No. 0027 of 2024 dated 24.01.2024, registered against the petitioner under Section 153-A of the Indian Penal Code(IPC) by respondent No. 2, along with all consequential investigation and proceedings emanating there from.

2. Heard learned counsel for the petitioner and perused the record as well as the CD File.

3. The allegations contained in the report, on the basis of which FIR has been registered read as under:-

“Brief facts of the case are that at this time an information through reliable source has been received at this Police Station that person namely, Umar Sahib alias Umar S/o Abdul Gani Caste Gujjar R/o Chak Sardar Desa Singh, Tehsil and District Kathua had uploaded provocative and objectionable content on social media with criminal intention in order to promote enmity in different groups on grounds of religion. By doing such acts which are prejudicial to maintenance of harmony in the society, aforementioned person has committed offence U/S 153-A IPC and a case FIR No.27/2024 U/S 153-A IPC stand registered and investigation entrusted to PSI Rahul Prashar PID No. 196256/EXJ of this Police Station. As the Case is Special in nature, which is 1st of its nature, 1st of the area and 14th of the current year. Copies of FIR will be submitted to quarter concerned. Accordingly”

4. I have gone through the contents of the FIR No. 0027 of 2024 which is sought to be quashed through the medium of this petition.

5. The grounds on which the FIR in question is sought to be quashed are that the FIR are that there was no intent to upload any provocative or objectionable content on social media nor was there any intention to cause any disharmony or enmity between any two communities by the petitioner. It is stated that the FIR impugned which is replete with vagueness and given the general nature of allegations, the same fails to disclose commission of any cognizable offence. The case of the petitioner is that the facts alleged in the FIR impugned, it transpires that the same contain bland allegations and is bereft of any credibility. It is stated that the petitioner had even apologized for something which he never committed and inspite of the same, the petitioner has been made a scapegoat in the process, thereby stigmatizing his image. It is further stated that the petitioner, a student

having entered the most important phase of his upcoming professional and personal life, is bound to suffer in case the impugned FIR sustains and in the process the petitioner shall perpetually be saddled with a stigma that would complete obliterate his career and a prospect of flourishing life ahead.

6. Status report has been filed by the respondents, stating therein that on 24.01.2024 at 18:05 hours, an information was received at Police Station Kathua from a reliable source to the effect that one Umar Sahib @ Umar S/o Abdul Gani, Caste Gujjar, R/o Chak Sardar Desa Singh, Tehsil and District Kathua, had uploaded *provocative and objectionable content* on social media with criminal intent to promote enmity between different groups on religious grounds. Accordingly, FIR No. 27/2024 under Section 153-A IPC was registered at Police Station Kathua, and the investigation was entrusted to PSI Rahul Prashar.

7. During the course of investigation, the Investigating Officer along with other police officials proceeded to the residence of the accused and served a Notice under Section 41-A Cr.P.C.. However, the accused failed to appear before Police Station Kathua for investigation. Considering the seriousness of the matter and the possibility of communal tension due to the viral Instagram post containing the caption “*Sabar, jab waqt hamara aayega tab sir dhad se alag kiye jayenge*” along with an image of *Babri Masjid*, the accused was taken into police custody after being informed of the grounds of arrest, his legal rights, and in compliance with D.K. Basu Guidelines.

8. It is further submitted that on 25.01.2024, three days' police remand of the accused was obtained from the Court of District Mobile Magistrate (Traffic), Kathua. The mobile phone of the accused was seized and sent to CFSL, Chandigarh for forensic analysis of the viral and objectionable content, and for extraction of relevant data from the Instagram account. The CFSL report and data from Instagram are still awaited. Further investigation shall be conducted upon receipt of the same.

9. From the perusal of the said FIR, it is clear that the FIR discloses the commission of cognizable offences, and as such, the SHO concerned was under a statutory obligation to register an FIR and proceed with the investigation in accordance with law. The moot question that arises for consideration is whether, despite the FIR disclosing cognizable offences, the inherent powers under Section 482Cr.P.C. can be invoked to quash the same.

10. Section 482Cr.P.C. provides that nothing in the Code of Criminal Procedure limits or affects inherent powers of the high Court to make such orders as may be necessary to give effect to any order under the Code of Criminal Procedure, or to prevent abuse of the process of any Court or otherwise to secure ends of justice.

11. The Supreme Court in ***State of Orissa v. Suraj Kumar Sahoo***, (2005) 13 SCC 540, has sounded a note of caution about the powers of High Court to be exercised in terms of Section 561-A Cr.P.C., corresponding to Section 482 of Central Code. Their lordships enunciated that the High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a

case where the entire facts are incomplete and hazy, more so, when evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, being of magnitude and cannot be seen in their true perspective without sufficient material before the Court. While exercising inherent jurisdiction as observed by their Lordships, it is not permissible for the Court to act as if it was a Trial Court. It would be none of the duties of the High Court to appreciate the evidence to conclude whether the material produced is sufficient or not for holding the accused guilty.

12. The Supreme Court in ***Satvinder Kaur v. State***, AIR 1999 SC 3597, has held that appreciation of evidence is the function of the Court when seized of the matter. At the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion (in the said case about the jurisdiction of the police station). It was also observed that for the purpose of exercising its power under Section 482 Cr. PC, to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegation made in the complaint or the documents accompanying the same per se, it has no jurisdiction to examine the correctness of otherwise of the allegations.

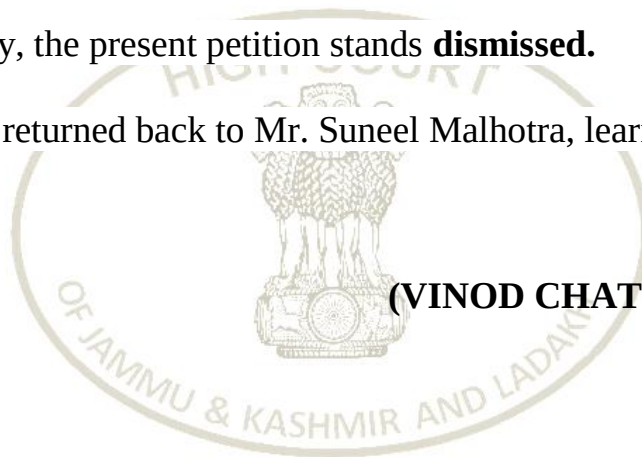
13. So far as the case of the petitioner is concerned, since the impugned FIR discloses the commission of cognizable offences, this Court is of the considered view that it would not be appropriate to exercise its inherent jurisdiction under Section 482 Cr.P.C. to quash the same at this stage. The allegations levelled in the said FIR, whether

true or false, are matter to be ascertained during investigation, which falls within the exclusive domain of the Investigating agency. The Police shall, therefore, proceed with the investigation strictly in accordance with law to ascertain the veracity of the allegations made therein. It is for the Investigating Agency to collect evidence and, based on the same, establish whether the allegations are substantiated or not.

14. In view of the above, this Court is of the considered opinion that no case is made out for exercising inherent powers under Section 482 Cr.P.C. for quashing the impugned FIR.

15. Accordingly, the present petition stands **dismissed**.

16. CD File be returned back to Mr. Suneel Malhotra, learned GA.



(VINOD CHATTERJI KOUL)
JUDGE

JAMMU
30.09.2025
BIR