

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- CRM(M) No. 311/2020

Mohd. Abdullah and others

.....Appellant(s)/Petitioner(s)

Through: Mr. M. Tariq Mughal, Advocate

Vs

UT of J&K and others

..... Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG for R- 1 to 4.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
26.07.2024

01. Though the file is posted with a very innocuous taken stage of service of the respondent No. 5- Mohammadoo s/o Qadir r/o Israrabad, Sidhra, tehsil & district Jammu but a very simple exercise of service of the respondent No. 5 – Mohammadoo is unveiling a very disturbing state of police functioning.

02. Police Station Nagrota came to register an FIR No. 0345/2020 dated 11.09.2020 for alleged commission of offences under section 452/323/147 of the Indian Penal Code, 1860. The FIR was registered at the instance of the respondent No. 5 – Mohammadoo who came to earn a direction to said effect under

section 156(3) of the Code of Criminal Procedure, 1973 from the court of Ist Additional Munsiff (Forest) Judicial Magistrate Ist Class, Jammu for registration of FIR and investigation thereupon.

03. Inspector Mohd. Shoket, No. EXJ/956269 the then SHO Police Station Nagrota registered the FIR and entrusted its investigation to SI Ayoub Khan, No. EXJ/166241, Police Post Sidhra.

04. In the FIR, the respondent No. 5 – Mohammadoo, as complainant, came to name five(5) persons as accused. All of them are the petitioners herein.

05. In the FIR it came to be expressly mentioned that accused – Mohd. Yousuf i.e. the petitioner No. 4 herein is himself in the J&K Police and is using his influence to thwart police action in the complaint of the respondent No. 5 – Mohammadoo. The respondent No. 5 – Mohammadoo has gone to the extent of saying that he and his family has been threatened physical elimination and the objective for the same is grabbing of the land and house of the respondent No. 5 – Mohammadoo situated at Israrabad, Sidhra.

06. The petitioners came forward with the present petition under section 482 of the Code of Criminal Procedure, 1973 on 06.10.2020, when this Court in terms of an order dated

08.10.2020 came to direct stay of investigation with respect to FIR No. 0345/2020 dated 11.09.2020.

07. In terms of an order dated 20.10.2021 with reference to the respondent No. 5 – Mohammadoo, this Court came to observe that he stands served and to that purpose vakalatnama dated 09.11.2020 came to be filed by Advocate Mohd. Yaseer Choudhary on behalf of the respondent No. 5 – Mohammadoo.

08. On account of the fact that said counsel was not appearing on behalf of the respondent No. 5 despite service, this Court again directed service of the respondent No. 5 in terms of the order dated 23.12.2022, acting on the side of caution that for quashment of the FIR lodged by the respondent No. 5 proceedings at his back may not be in the fitness of facts. Accordingly, with respect to the service of the respondent No. 5 – Mohammadoo, this Court in terms of order dated 10.05.2024 came to direct issuance of notice to the respondent No. 5 to be executed by SHO Police Station Nagrota with an express observation that SHO Police Station Nagrota to ensure that notice is received back by this Court before the next date of hearing which is today.

09. It is this report with respect to the notice issued on 20.05.2024 addressed to the respondent No. 4 which is intriguing. The notice forwarded to SHO Police Station Nagrota was further forwarded to Incharge Police Post Sidhra for

execution and report wherefrom Head Constable Mazher Hussain, No. 1650 was deputed for execution and report who has come forward with a report that no such person found at the given address, meaning thereby that there is no such person found at the given address of the respondent No. 5 – Mohammadoo. It is very startling that a complainant has not been found at his address i.e. Israrabad, Sidhra, tehsil & district Jammu by the Police itself.

10. The respondent No. 5's son is said to a Sub Inspector in the Jammu & Kashmir Police and, therefore, the respondent No. 5 cannot be assumed to be an unknown person for whose whereabouts the Police Post Sidhra would go clueless and return a process of this Court with remarks that "no such person was found at the given address." सत्यमेव जयते

11. Thus, there is an apparent attempt on the part of the Police Station Nagrota to hoodwink the process of law and this court as well. This Court is left to wonder what type of investigation has been taken place qua FIR lodged by the respondent No. 5 when his whereabouts could not be confirmed by the Investigating Officer concerned being the first essential ingredient before carrying out an investigation in the FIR lodged by the respondent No. 5 – Mohammadoo himself. This state of

affair cannot be let go casually by this Court as if a routine matter.

12. Accordingly, this Court directs Sr. Superintendent of Police (SSP), Jammu to appear in person to explain the state of functioning of the Police Station Nagrota and its officials in not being able to serve the complainant/the respondent No. 5.

13. A copy of this order be sent to Sr. Superintendent of Police (SSP), Jammu by the Registrar Judicial, Jammu for notice and compliance.

14. List this case on 05.08.2024 for appearance of Sr. Superintendent of Police (SSP), Jammu.

JAMMU
26.07.2024
Muneesh



(RAHUL BHARTI)
JUDGE