

S. No. 71
Supplementary-4

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 141/2022
CrlM No. 456/2022

Mushtaq Ahmad Ganie and Anr.

....Petitioner(s)

Through: Mr. Umar Mir, Adv.

V/s

UT thr. P/S Sumbal and Anr.

.... Respondent(s)

Through: None

CORAM:

Hon'ble Mr. Justice Sanjay Dhar, Judge.

ORDER

28.04.2022

1. Petitioners have challenged FIR No. 97/2020 for offences under section 34, 353 IPC registered with Police Station, Sumbal and the chargesheet emanating therefrom which is stated to be pending before the Court of Judicial Magistrate, 1st Class, Sumbal.

2. Heard and considered.

3. It has been contended by the learned counsel for the petitioners that a bare perusal of the FIR reveals that no offence is made out against the petitioners. Learned counsel for the petitioners has also contended that there are contradictory versions of the occurrence given in the FIR, Challan and the docket on the basis of which the FIR has been lodged.

4. It is further contended that the petitioners were also appointed as Nodal Officers for quarantine facility, as such, they could not have been booked for offences under Sections 34, 353 of IPC.

5. As per the impugned FIR, the allegation against the petitioners is that on the day of the occurrence, the police officials on duty desired to conduct the search of the vehicle belonging to the petitioners but it was resisted by them. It is further alleged in the impugned FIR that despite being asked not to take their vehicle inside, the petitioners along with co-accused prevented the police officials from performing their lawful duties by launching an attack upon them. These allegations have been found established against the petitioners after conducting full-fledged investigation of the case and even the charges have also been framed by the learned trial Magistrate against the petitioners. Even if there is any contradictory version as regards the occurrence in the impugned FIR and the challan, still then this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. cannot analyze the effect of such contradictions at this stage as it would be for the trial court to do so during the trial of the case.

6. So far as the contention of the learned counsel for the petitioners that the petitioners were also appointed as Nodal Officers is concerned, it is open to the learned counsel for the petitioners to place on record these documents as their defence before the learned trial court at an appropriate stage during the trial of the case. At this stage and in these proceedings, it is not open to this Court to determine the veracity of the defence of the petitioners/accused.

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

(Sanjay Dhar)
Judge

SRINAGAR
28.04.2022
Junaid