

68
Supp

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 296/2025
CM No. 700/2025

Abdul Qayoom Ganie and Ors.

..... Petitioner (s)

Through: Mr. Mudasir Bin Hassan, Adv.

V/s

Union Territory of J&K and Ors.

..... Respondent(s)

Through:

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

05.06.2025

1. The petitioners, through the medium of present petition have challenged charge sheet emanating from FIR No. 52/2024 for offences under Section 142, 148, 323, 506 of IPC registered with Police Station, Zainapora, Shopian.
2. As per allegations made in the FIR, respondent No. 3 lodged written report with the Police alleging therein that on 23.06.2024, when he was undertaking repairs of his house, the petitioners along with co-accused armed with

- axes, knives and iron rods came over there and launched an attack upon the complainant/respondent No. 4 as a result of which, he received injuries on his head and other parts of the body. Besides this, Tanveer Ahmad, Manzoor Ahmad and Hameed Imran also received injuries on different parts of their bodies.
3. On the basis of the aforesaid report, the impugned FIR came to be registered and the investigation was set into motion. As per the contents of the petition, after investigation of the impugned FIR, charge sheet stands already filed before the learned court of Chief Judicial Magistrate, Shopian.
4. The petitioners, have challenged the impugned proceedings on the ground that petitioner No. 1 is working as Selection Grade Constable in the Police and is posted at Ahstan Sharief Jinab Sahib Soura. It has been submitted that on the date of the incident, he was discharging his duty over there. It has been further submitted that petitioner No. 2 is working as Teacher at Higher Secondary School, Shopian and on the date of the incident, he was discharging his duty as Invigilator. Regarding petitioner No. 3, it has been

submitted that he is working as Lecturer in Higher Secondary School, Keegam and he was also discharging his duty at relevant point of time. Thus, according to the petitioners, they were not present on spot at the time of the incident, and as such, no offence is made out against them. It has been submitted that the police has not investigated the matter in its proper perspective and that respondent No. 3 has lodged impugned proceedings with a view to wreak vengeance upon the petitioners with whom he has having a civil dispute.

5. I have heard learned counsel for the petitioner and perused the material on record
6. The contents of the impugned FIR which have already been referred to hereinbefore, clearly disclose that the petitioners and co-accused have launched an attack upon the complainant and his other associates, which has resulted in injuries to them. It is alleged in the impugned FIR, that the petitioners were carrying weapons like axes, knives and iron rods at the time of the incident and they used these weapons to inflict injuries upon the complainant and his

associates. Thus, allegations contained in the FIR clearly disclose commission of cognizable offences against the petitioners. The Investigating Agency, after investigating the impugned FIR, have found substance in these allegations which has resulted in filing of the charge sheet against the petitioner.

7. The contention of the petitioners is that they were not present on spot at the relevant point of time as they were discharging their official duties at respective places of their posting and as such, the challan could not have been filed against them. The plea of *alibi* put forward by the petitioners cannot form a ground for quashing the impugned challan in these proceedings. The veracity of the defence put up by the petitioners can be gone into by the trial court at the appropriate stage and this Court in exercise of its powers under Section 528 of BNSS cannot hold a mini trial to ascertain the veracity of the defence put up by the petitioners. In case, the petitioners feel that their defence of *alibi* has not been investigated by the Investigating Agency, it is open to them to approach the learned trial Magistrate



**(Sanjay Dhar)
Judge**

SRINAGAR
05.06.2025
Aasif