

**IN THE HON'BLE COURT OF METROPOLITAN  
MAGISTRATE, SAKET COURT, NEW DELHI  
CC NO. \_\_\_\_\_/2020**

**IN THE MATTER OF:**

JAMIA MILLIA ISLAMIA

**...COMPLAINANT**

**VERSUS**

THE STATE (NCT OF DELHI) & ORS.

**...ACCUSED**

**P.S:** Jamia Nagar

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**COMPLAINANT**  
(REGISTRAR, JMI)

THROUGH COUNSEL:

**ASGHAR KHAN & ASSOCIATES**  
*Ch. No. 498, Patiala House Courts,*  
*New Delhi-110001*  
**Mob. 9811045583**

**PLACE:** NEW DELHI  
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**P.S:** Jamia Nagar

**MEMO OF PARTIES**

**1. JAMIA MILLIA ISLAMIA**

THROUGH ITS REGISTRAR,  
JAMIA NAGAR,  
NEW DELHI-110025

**...COMPLAINANT**

**VERSUS**

**1. THE STATE (NCT OF DELHI)**

**2. COMMISSIONER OF POLICE,**

MSO BUILDING, INDRAPRASTHA MARG,  
NEW DELHI-110095

**3. THE DEPUTY COMMISSIONER OF POLICE**  
SOUTH EAST DISTRICT,  
SARITA VIHAR,  
NEW DELHI-110076

**4. THE ADDITIONAL COMMISSIONER OF POLICE**  
SUKHDEV VIHAR,  
NEW DELHI-110025

**5. STATION HOUSE OFFICER**  
JAMIA NAGAR, OKHLA,  
NEW DELHI-110025

**...ACCUSED**

**COMPLAINANT**  
(REGISTRAR, JMI)

THROUGH COUNSEL:

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**APPLICATION UNDER SECTION 156(3) OF THE CODE OF  
CRIMINAL PROCEDURE, 1973 FOR REGISTRATION OF FIR  
UNDER SECTION 268, 295, 295A, 296, 297, 298, 307, 323,  
325, 338, 341, 342, 352, 357, 427, 435, 447 READ WITH  
SECTION 34 AND 120-B OF THE INDIAN PENAL CODE,  
1806 AND SECTION 3 AND 4 OF PREVENTION OF DAMAGE  
TO PUBLIC PROPERTY ACT, 1984 AND OTHER  
APPROPRIATE LAWS**

1. That the Complainant Jamia Millia Islamia, New Delhi (*hereinafter referred to as the University*) is being represented by its, duly authorised, Registrar.
2. That the Complainant is constrained to approach this Hon'ble Court against the Delhi Police officials for illegally breaking out into the campus of University on 15.12.2019 (*hereinafter referred to as date of incident*) without seeking any permission from the competent authorities and unlawfully attacking innocent students of the University with tear gas shells, lathi charge and open firing and also for vandalising government property belonging to the University.
3. That the Chief Proctor of the University filed a complaint dated 16.12.2019 to the S.H.O Jamia Nagar for registration of FIR and a copy of same was also sent via email on 17.12.2019 to S.H.O Jamia Nagar, DCP South-east and Commissioner of Delhi Police against the unauthorised entry of Police into the University campus, inflicting physical injuries to the students studying in library and damaging the properties of University on 15.12.2019. However, till date no FIR has been registered in this regard. A copy of complaint dated 16.12.2019 and

complaint dated 17.12.2019 via email are annexed herewith as **ANNEXURE-A1 [COLLY]**.

4. That the Police Officials registered an FIR No. 298/2019 dated 15.12.2019 in relation to the unfortunate incident of 15.12.2019. It is pertinent to mention herein that the said FIR has not been lodged on the basis of above-mentioned complaint dated 16.12.2019 made by the Complainant. A copy of FIR No. 298/2019 is annexed herewith **ANNEXURE-A2**.

5. That the Chief Proctor in reply dated 18.12.2019 to the Notice U/s 91 Cr.P.C dated 15.12.2019 received by it, explicitly clarified that the said FIR No. 298/2019 was not registered on the basis of any complaint by the Complainant and that the Complainant has only made one complaint dated 16.12.2019 by peon book and through email on 17.12.2019 on which no FIR has been registered. A copy of reply dated 18.12.2019 to the said notice is annexed herewith as **ANNEXURE-A3**.

6. That in the meanwhile the Registrar of the University sent a letter to the Chairman, National Human Rights Commission (NHRC) dated 20.12.2020 requesting the

Commission to investigate the police brutality and unlawful entry into the University Campus. A copy of letter dated 20.12.2019 is annexed herewith as **ANNEXURE-A4.**

7. That on the same day i.e., 20.12.2019 the Registrar also sent a letter to the Joint Commissioner of Police, district-South East, New Delhi requesting to take immediate action on the application dated 16.12.2019 by the Chief Proctor and lodge an FIR in the same regard. A copy of letter dated 20.12.2019 is annexed herewith as **ANNEXURE-A5.**

8. That thereafter the Chief Proctor herein sent a complaint dated 23.12.2019 to the Commissioner of Police, Delhi regarding non registration of FIR in relation to the abovementioned complaint dated 16.12.2019 and 17.12.2019. However, no action whatsoever has been taken by the authorities till date. A copy of complaint dated 23.12.2019 is annexed herewith as **ANNEXURE-A6.**

9. That the Complainant fully cooperating with the police officials and in compliance of Notice U/s 91 Cr.P.C dated 16.12.2019, furnished 4 pen drives to the Police officials



containing CCTV footage of 15.12.2019 and the same were duly seized vide seizure memo dated 27.12.2019. A copy of Notice U/s 91 Cr.P.C dated 16.12.2019, reply dated 02.01.2020 to the said notice and seizure memo dated 27.12.2019 are annexed herewith as **ANNEXURE-A7 [COLLY]**.

10. That thereafter, the Complainant sent a complaint dated 02.01.2020 to the Deputy Commissioner of Police, Crime Branch, Delhi requesting to register an FIR of the incident which took place on 15.12.2019, as the complaint dated 16.12.2019 made by the University for registration of FIR, which was pending in Jamia Nagar Police station, was stated to be transferred to Crime Branch. A copy of complaint dated 02.01.2020 is annexed herewith as **ANNEXURE-A8**.

11. That the Registrar of the University has sent a reminder letter dated 15.01.2020 to the Commissioner of Police requesting to direct DCP (crime)/ Jamia Nagar Police Station to register FIR urgently. A copy of complaint dated 15.01.2020 is annexed herewith as **ANNEXURE-A9**.

12. That the relevant facts and events leading to the present application are as follows:

13. That on 04.12.2019, the Union Cabinet cleared the Citizenship (Amendment) Bill, 2019 for introduction in the parliament. That on 09.12.2019, the said bill was introduced in Lok Sabha and was passed on 10.12.2019 and subsequently the said bill was passed by Rajya Sabha on 11.12.2019.

14. That on 12.12.2019, after receiving assent of the President of India, the Bill assumed the status of Act and came to be known as The Citizenship (Amendment) Act, 2019. The act has come into force on a date specified by the Government of India by notification in the Official Gazette.

15. That said Bill/Act since the day it was cleared by the Union Cabinet, had been opposed and has received widespread criticism from the masses across the country, for being a Bill/Act which is against the basic structure of the Constitution.

16. That on 09.12.2019, the students of Jamia Millia Islamia while exercising their fundamental rights enshrined in the Constitution of India, decided to protest against the said act through a peaceful March.

17. That on 15.12.2019, the civic society along with neighbouring localities called for a peaceful protest near/outside the University area, the police officials in pursuit of clearing the crowd, broke into the campus through gate no. 4 and gate no. 7 without any having any provocation or seeking any permission from the University or the competent authorities and used unjustified, excessive, arbitrary and brute force, in total disregard of Law and order.

18. That the Police officials while entering the premises of the University attacked several guards who were on their duty at the gate no. 4, 7, 8 and at Jama Masjid gate of the University. They were beaten very badly by the said officials.

19. That the students of the University were mercilessly beaten, hurled abuses, racial and derogatory comments were herald, tear gas shells were fired, lathi charge was

done. That some of the police officials without any just cause broke open the main library gate and also the doors and windows of the library building and fired tear gas shells on peaceful studying students even inside the library.

20. That the said police officials upon realising being recorded in CCTV, switched off the lights of the reading hall, locked the doors from outside and threw tear gas bombs inside the library. It is submitted that the students in the photos and videos can be seen to be badly injured and lying on the floor in an unconscious state. It is further submitted that the injuries received by the students are grievous in nature and one of the students even lost an eye. A copy of relevant photographs evidencing the brutality of Delhi Police officials attacking innocent students of the University are annexed herewith as **ANNEXURE-A10 [COLLY]**.

21. That religious sentiments of the people residing in the area were hurt as police officials also broke open the Mosque of the University while the people were offering *namaz* and man-handled *Imam* of the said Mosque and mercilessly beaten the security guards of University who

came to the rescue. Further, said officials also vandalised the Mosque of the university.

22. That there has been a huge loss to the government property and there are photographs and video footage evidencing the fact that after entering the campus, the police officials vandalised the government property belonging to the University and the Mosque of the campus. A copy of relevant photographs evidencing vandalism of property of University and Mosque of the University are annexed herewith as **ANNEXURE-A11 [COLLY]**.

23. That the said police officials also picked up many students and some of whom were studying in the library and illegally detained them at various Police Station i.e., Kalkaji, New Friends Colony, etc.

24. That force used police officials is in complete disregard of the principle governing the use of force by the state/law enforcement agencies. It is submitted that excessive, disproportionate and unreasonable force was used by the Police officials on the innocent students of the University who were peacefully protesting in exercise of their

Fundamental Right enshrined in the Constitution of India.

25. That in Hon'ble Apex Court in the case of **Anita Thakur v. State of J&K (2016 15 SCC 525)**, found the police guilty of using excessive force in bring down the protest even through the violence was instigated by the petitioners. The court observed as follows: *"in those cases where assembly is peaceful, use of police force is not warranted at all. However, in those situations where crowd or assembly becomes violent it may necessitate and justify using reasonable force. However, it becomes a more serious problem when taking recourse to such action, police indulge in excessive force thereby becoming barbaric or by not halting even after controlling the situation and continuing its tirade. This result in violation of human rights and human dignity. That is the reason that human right activists feel that police frequently abuse its power to use force and that becomes a serious threat to the rule of law"*

26. That the importance of proportionality was also explained by the Hon'ble Apex Court in the case of **Om Kumar v. Union of India [2001 (2) SCC 386]**, wherein

it was held that administrative actions in India affecting fundamental freedoms has always been tested on the anvil of 'proportionality'. Therefore, the following test must be stratified for upholding the legality of use of force by law enforcement agencies:

- a. *Firstly*, whether the use of force was necessary?
- b. *Secondly*, whether the force used was proportional to the action sought to be controlled?
- c. *Thirdly*, whether proper procedure was followed (such as necessary permission) and risks calculated before using such force?

27. That in view of the above facts and circumstances, it is submitted that the Police officials have committed serious offences under section 268, 295, 295A, 296, 297, 298, 307, 323, 325, 338, 341, 342, 352, 357, 427, 435, 447 read with section 34 and 120-B of I.P.C and under section 3 and 4 of Prevention of Damage to Public Property Act, 1984 and State should be held accountable for such illegal and unlawful acts and excessive/unnecessary force used by the police officials against the innocent protesting students.

28. That the Complainant has made several requests and various complaints to the Police seeking registration of FIR and taking action against the Accused person. However, neither any FIR has been registered nor has any investigation been carried out whatsoever. Hence, left with no other alternative the complainant is compelled to approach this Hon'ble Court for proper adjudication of the present matter.

29. That the Complainant reserves the right to put forth new points/arguments/facts/documents at the time of the arguments of the present Application.

### **PRAYER**

It is therefore, most respectfully prayed that this Hon'ble Court may be pleased:

- a. To Direct the Police Authorities/ the concerned SHO to register an FIR under section 268, 295, 295A, 296, 297, 298, 307, 323, 325, 338, 341, 342, 352, 357, 427, 435, 447 read with section 34 and 120-B of I.P.C and under section 3 and 4 of Prevention of Damage to Public Property Act, 1984 and other appropriate laws in the present matter and investigate the same against the



accused persons and to carry out a proper and fair investigation.

- b. To pass such other order(s), as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**COMPLAINANT**  
(REGISTRAR JMI)

THROUGH COUNSEL:

**ASGHAR KHAN & ASSOCIATES**  
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**P.S:** Jamia Nagar

**AFFIDAVIT OF A.P. SIDDIQUI, AGED ABOUT 58 YEARS S/o  
LATE SHRI HASIR AHMAD SIDDIQUI, REGISTRAR, JAMIA  
MILLIA ISLAMIA UNIVERSITY, NEW DELHI-110025**

I, the deponent, do hereby solemnly affirm and declare as under:

1. That I am A.P. Siddiqui S/o Late Shri Hasir Ahmad Siddiqui, Registrar, Jamia Millia Islamia, Maulana Mohammad Ali Jauhar Marg, Jamia Nagar, New Delhi-110025 in the accompanying Application U/s 154 (3) Cr.P.C, 1973 seeking registration of FIR under section 268, 295, 295A, 296, 297, 298, 307, 323, 325, 338, 341, 342, 352, 357, 427, 435, 447 read with section 34 and 120-B of I.P.C and under section 3 and 4 of Prevention of Damage to Public Property Act, 1984 and other appropriate law therefore I am competent to file this affidavit for and on behalf of the Complainant in support of the Application.
2. That the accompanying Application has been drafted by my counsel as per my instruction. I have read and fully understood the contents of the Application. I also found the contents of this Application to be true and correct.

**DEPONENT**

**VERIFICATION**

Verified at New Delhi on \_\_\_\_ day of \_\_\_\_\_, 2020 that the contents of the above noted affidavit are true and correct to my knowledge and belief, and nothing has been concealed there from.

**DEPONENT**