IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE RAJA SAEED AKRAM KHAN, CJ
MR. JUSTICE RAZA ALI KHAN

CRIM. PLA No. 21 OF 2024

Crim. Misc. No. 43 of 2024

(Against the judgment dated 09.07.2024, passed by the High Court in Crim. petition No. 19 of 2024)

Muhammad Farooq DSP Sudhnoti and others.

…Petitioners

VERSUS

Ex-Officio Justice of Peace/Sessions Judge District Sudhnoti/ Pallandri & others.

…Respondents

Appearances:

For the Petitioners:	Syed Nazir Hussain Shah Kazmi, Advocate.
For the Respondents:	Nemo.
Date of hearing:	20.09.2024

ORDER:

***Raza Ali Khan, J*:-** The petition (supra) challenges the judgment rendered by the High Court, dated 09.07.2024, in criminal petition No. 19/2024, whereby, the petition filed under Section 561-A of the Code of Criminal Procedure (Cr.PC) by Sardar Faheem Akhtar Rabani, proforma-respondent No. 3, was dismissed.

2. The case arises from formal application submitted by respondent No. 2 to the Superintendent of Police (SP), District Sudhnoti, on 11.06.2024, requesting for registration of an FIR against the petitioner and others. Despite this request, no action was taken by the concerned authorities. As a result whereof, on 21.06.2024, Respondent No. 2 filed an application under Section 22-A, Cr.PC, before the Justice of Peace/Sessions Judge, Sudhnoti, seeking for registration of the criminal case. The petitioners and others; opposing party, filed objections to this application. After hearing both sides, the learned Justice of Peace through order dated 29.06.2024, directed the relevant police authorities to register a case based on the complainant's application and to proceed further in accordance with law. Dissatisfied with the order passed by the Justice of Peace, proforma-respondent No. 3 filed a petition under Section 561-A, Cr.PC, before the High Court challenging therein the directive for registration of FIR. This petition was dismissed through the impugned judgment dated 09.07.2024 which forms the basis of the impugned judgment under consideration in the present petition.

3. Syed Nazir Hussain Shah Kazmi, learned counsel for the petitioner, contended that bot,h the High Court and the Justice of Peace, failed to appreciate the critical fact that Respondent No. 2, along with others, had assaulted the petitioners, who were police officials acting in the course of their official duties. He further emphasized that in response to the illegal acts of Respondent No. 2, two separate FIRs had already been registered against the respondent and others on 09.06.2024 and 10.06.2024. The counsel argued that the order passed by the learned Justice of Peace not only contravenes the law but also constitutes abuse of the judicial process. It was argued that no criminal proceedings could be initiated against the petitioners who were performing their official duties and that there was no personal enmity between amongst petitioners and respondent No. 2. The learned counsel urged this Court to grant leave for further deliberation in the matter.

4. We have carefully considered the arguments advanced by the learned counsel for the parties and thoroughly examined the record. It is evident from the available record that the complainant, Respondent No. 2, had lodged an application with Proforma Respondent No. 6, SP of District Sudhnoti, on 11.06.2024, requesting therein for registration of a criminal case against the petitioner and others. Despite this application, the concerned authorities failed to act as required under section 154 Cr.PC, which mandates the registration of an FIR when a cognizable offence is reported. In the light of this inaction, respondent No. 2 appropriately sought recourse under section 22-A, Cr.PC by approaching the Justice of Peace, Sudhnoti. The learned Justice of Peace

having considered the legal framework and relevant facts correctly ordered the police to register FIR and proceed in accordance with law. The allegations levelled in the application submitted by Respondent, prima facie, disclosed the cognizable offenses, and the police authorities were duty-bound to proceed in accordance with Section 154, Cr.P.C. The petitioner's counsel has raised the objection that two FIR's had already been lodged regarding report of the same incident and that the registration of new FIR in the same matter was without lawful authority. However, this argument is without merit. If during the course of investigation, it is found that multiple FIR's arise out relating to the same occurrence, it is the duty of the investigating agency to determine which version is truthful and which one is false. Upon the completion of the investigation, the agency is required to submit a final report under section 173, Cr.PC and at that point it is up to the Court to decide which FIR shall be tried and any redundant FIR, if found, that may be quashed, thus, it is premature to make determination at this stage of the proceedings. It is well settled jurisprudence that investigation process cannot be halted in routine by invoking the inherent jurisdiction. It is the prerogative of investigating agencies to investigate and interference by the Court, can only be made under exceptional circumstances. Such grounds for interference clearly outlined by this Court in a number of pronouncements, therefore, unless these specific conditions are met, the investigation should proceed without judicial interruption.

5. Another argument forcefully advanced by the learned counsel for the petitioners, asserting that police officials are immune from criminal liabilities due to the

performance of their official duties, is not only legally baseless but profoundly flawed. Such reasoning implies that wearing uniform confers an immunity from accountability, such is a dangerous and erroneous interpretation of law. Official status or authority does not sanction violation of law, all individuals, regardless of their positions, are equally subject to legal standard. This notion is further understood by Hadith of the Prophet Muhammad (P.B.U.H), which warns that past Nations perished due to the unequal application of justice – one set of laws for the elite and another for the common people. True justice demands that no individual, irrespective of their authority is above law. To suggest otherwise erodes the core principles of equality, fairness and accountability that uphold the rule of law.

The learned High Court has correctly rendered the impugned judgment, which does not warrant any interference by this Court. Consequently, before us, the petition lacks merit and lave stands refused.

JUDGE **CHIEF JUSTICE**

Muzaffarabad,
23.09.2024