IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Appellate Jurisdiction)

PRESENT:

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

CRIM. Appeal No. 17 OF 2025
(On appeal from the judgment of the High Court dated January 13, 2025, passed in Petition No. 2728 of 2024)

Muhammad Shamim s/o Zaheer Ahmed Khan & another.

…Appellant(s)

VERSUS

State through Advocate General & others.

…Respondent(s)

Appearances:

For the Appellant(s):	Barrister Humayun Nawaz Khan, Advocate.
For the State:	Raja Muhammad Saeed Khan, Addl. Advocate-General.
Date of hearing:	27.11.2025

JUDGMENT:

Raza Ali Khan, J:- The appellants, along with several others, were booked in FIR No. 240/24 dated October 14, 2024, registered at Police Station Bagh in the offences

under Sections 341 and 34 of the Azad Penal Code (APC). The FIR was lodged on the basis of a written report submitted by Muhammad Fayyaz, S/G No. 139, posted at Sudhan Gali, alleging that on the said date, at about 5:30 p.m., the accused, including the appellants and 45–60 unidentified persons, assembled at Sudhan Gali Zero Point under the leadership of Muhammad Shamim, obstructed the main Bagh–Muzaffarabad Road, and initiated a protest. The protest was in response to an alleged assault upon one Bilal Khadim in the area of Beer Pani, and the protestors demanded immediate registration of an FIR against the alleged perpetrators. The FIR further narrates that despite assurances by the police that the matter was being processed and lawful action was underway, the protestors refused to disperse, thereby obstructing a public way and causing inconvenience and disruption to the general public. Upon these allegations, the FIR was registered and investigation commenced.

2. The appellants filed a petition under Section 561-A, Cr.P.C. before the High Court seeking quashment of the FIR, which was dismissed through judgment dated January 13, 2025. The said judgment has been assailed before this Court by way of the present appeal.

3. Learned counsel for the appellants, Barrister Humayun Nawaz Khan, Advocate, argued that the FIR does not disclose the commission of any cognizable offence, as the essential ingredients of Section 341, APC—stemming from the definition of “wrongful restraint” under Section 339—are not satisfied. It was contended that no specific individual was prevented from proceeding lawfully and no aggrieved person lodged a complaint alleging wrongful restraint. It was further

urged that the alleged protest was peaceful and amounted to lawful political expression protected under Article 4(4)(6) of the Azad Jammu and Kashmir Interim Constitution, 1974. It was argued that registration of the FIR amounts to suppression of this fundamental right. Reliance was placed upon an unreported judgment in Rai Muhammad Usama vs. District Police Officer [W.P. No. 50329-Q/2024] and reported judgments in 2021 SCR 605, 2020 SCR 605, and PLD 2011 Karachi 99.

4. The learned Additional Advocate-General, representing the State, supported the impugned judgment and contended that the petition for quashment was misconceived as the matter is still under investigation and involves disputed factual questions. It was argued that courts do not ordinarily interfere with investigation, nor can an FIR be quashed unless it is patently devoid of criminal ingredients, which is not the case here. It was further submitted that the investigating agency must be permitted to complete its statutory functions in accordance with law.

5. We have considered the submissions of the learned counsel for the parties and examined the record.

6. So far as the argument of the learned counsel for the appellant is concerned, that the FIR was not “lodged” by any specific individual who was allegedly restrained, it merits careful examination within the broader constitutional context. It is a settled principle that freedom of movement is a fundamental right guaranteed to every citizen, and its unlawful obstruction constitutes an infringement not only of private interest but of public interest at large. Where an act of wrongful restraint affects the community’s right of movement,

the State is not only competent but obligated to intervene for the maintenance of public order and for safeguarding the rights of the general public. Thus, the validity or continuation of criminal proceedings under Section 341, APC does not depend exclusively upon a complaint from a specifically named restrained person. If the act complained of impedes public passage or obstructs general movement, the State may lawfully initiate or expand the FIR based on its preventive and protective responsibilities.

7. In the present case, the allegation is that the appellants, through their conduct, created an unlawful blockade on a public road, thereby restricting the free movement of citizens. Such obstruction, even if not individually reported by every affected person, prima facie constitutes wrongful restraint under Section 341, APC. The contention that only a specifically restrained complainant could authorize enlargement or clarification of the FIR is therefore untenable. The offence alleged has a distinctly public dimension and falls squarely within the lawful authority of the State to act in protection of community rights.

8. In light of these observations, the judgment referred to by the learned counsel for the appellants may be relevant in principle but is distinguishable on facts. That judgment dealt with a private dispute involving specific individuals; the present case involves obstruction of public movement, an issue of wider public significance that invokes the preventive jurisdiction of the State without the necessity of individual complaints from every person affected.

9. Coming to the legal foundation of the FIR, Section 339, APC defines “wrongful restraint” as voluntary obstruction

preventing a person from proceeding in a direction in which he has the right to proceed. The exception—relating to obstruction of a private way under a good-faith claim of right—has no relevance in the present matter, which concerns a public thoroughfare. Whether the alleged conduct of the appellants amounts to voluntary obstruction, is a matter requiring factual determination by the investigating agency. Such findings cannot be pre-empted or bypassed through jurisdiction invoked under Section 561-A, Cr.P.C.

10. It is well-settled that courts refrain from interfering in criminal investigations except in the rarest of cases where the FIR is demonstrably malicious, absurd, or devoid of any criminal ingredient. Determination of facts, assessment of evidence, and establishment of criminal liability are matters statutorily entrusted to investigative and trial fora, which must be permitted to exercise their functions independently.

11. For these reasons, we find no error of law or jurisdiction in the impugned judgment. The FIR discloses sufficient factual basis warranting investigation, and the contention regarding the alleged non-enlargement of the FIR by a specifically restrained person is devoid of force. No case for interference is made out.

The appeal is therefore dismissed. The investigating agency shall proceed strictly in accordance with law, uninfluenced by any observation contained herein.

JUDGE **CHIEF JUSTICE**

Muzaffarabad,
03.12.2025