

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Reserved on: 05.08.2025
Pronounced on: 08.08.2025**

CRM(M) No.859/2021
CrlM No.2404/2021

1. **Sher Mohd.** Age 45 years
S/O Rustam Sheikh
R/O Sangaldan Tehsil Gool
District Ramban
2. **Mohd. Shafi,** Age 50 years
S/O Mohd. Sultan
R/O Mavelkot, Tehsil Gool
District Ramban
3. **Mohd. Afzal,** Age 52 years
S/O Abdul Gani
R/O Thataraka, Tehsil Gool

.....Petitioner

Through: Mr. Nadim Bhat, Advocate

VS

1. Union Territory of Jammu & Kashmir
through Senior Superintendent of Police,
Ramban.
2. Deputy Commissioner, Ramban.
3. SHO Police Station Gool, District Ramban
4. Niab Tehsildar, Sangaldan, Tehsil Gool,
District Ramban.

.....Respondents

Through: Mr. Eishaan Dadhichi, GA.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. Petitioners, through the medium of this petition under Section 482 of CrPC, seek quashment of Criminal Case No.57 of 2021 titled 'UT of J&K V. Mohd. Shafi & Ors.' arising out of FIR No.39/2021 registered at P/S Gool on 11.05.2021 for the commission of offences punishable under Sections 188/147

IPC & 51 Disaster Management Act, pending before the court of learned Judicial Magistrate (Munsiff) Gool.

2. The impugned charge sheet has been assailed on the ground that the FIR was registered against the law, as the same did not disclose any cognizable offence justifying an investigation by the Police under Section 156(3) of the CrPC without following the provisions of Section 155(2) of the CrPC, as the offences being non-cognizable, the matter could not have been investigated without the orders of the Magistrate; that the criminal proceedings are manifestly attended with mala fides, as the same have been maliciously instituted with ulterior motives for wreaking vengeance on the petitioners accused with a view to spite them as they had participated in a protest against the administration, as is evident from the FIR itself.

3. Pursuant to notice, the respondents filed objections, asserting that the petitioners on 11.05.2021 along with some other unknown persons had gathered at Main Market Sangaldan and protested against the district administration and, thus, violated the order issued by the District Magistrate, Ramban on 07.05.2021 under Section 144 CrPC in view of COVID-19; that the petitioners had held a protest intentionally against the administration during lockdown defying the order passed by the District Magistrate, Ramban, as such, they were found to have committed offences punishable under Sections 188/34 IPC and 51 DM Act and a charge sheet was, thus, filed before the Trial Court.

4. Learned counsel for the petitioners submits that it was unfortunate on the part of the respondents that due to some protest by the petitioners along with some other persons against the District Administration, they were implicated in

a false case for violation of the order passed by the District Magistrate in connection with the COVID-19 and prayed that the prosecution of the petitioners in such a case was illegal, as the proceedings were initiated against them maliciously by the Administration and prayed that the proceedings before the court below in the case titled '*UT of J&K v. Mohd. Shafi & Ors*' arising out of FIR No. 39/2021 under Section 188/34 IPC & 51 DM Act registered at P/S Gool be quashed.

5. Learned State counsel, *ex adverso*, argued that it is an admitted fact that the petitioners had lodged a protest on the day of occurrence when the order passed by the District Magistrate was in force, whereby, not more than four persons could assemble in view of precautions taken during the COVID-19 epidemic. The petitioners had, thus, violated the order passed by the District Magistrate on 16.05.2021 and, as such, they are liable to be prosecuted for the commission of the offences, which they had been found to have committed. It was prayed that the charge sheet had been laid before the court of law after investigation of the case properly and the petitioners must face trial before the trial court so that they are dealt in accordance with law. Dismissal of the petition was prayed.

6. The case projected by the respondents against the petitioners herein is that they had violated the order passed by the District Magistrate Ramban on 16.05.2021 as a matter of precaution to control and contain the COVID epidemic, by which, the movement of the public was also restricted. The case against the petitioners is not that they had protested against or violated the order passed by the District Magistrate in any manner but it has been alleged that they

had held a protest against the District Administration without clarifying as to what was the reason of protest. The petitioners, who have been charge sheeted, are three in number and to attract the offence under Section 188 CrPC for violation of an order issued under Section 144 CrPC, the number of such persons must be more than four so as to constitute an unlawful assembly. It appears that impugned FIR came to be registered against the petitioners frivolously, as the officers felt offended of their protest against them, with an aim to harass them. Viewed thus, trial of the petitioners as accused in the case, would be an abuse of the process of the court.

7. In this view of the matter, it appears that the FIR was registered against the petitioners without any reason and their trial would be a travesty of justice. It may also be noted that many State governments in the Union of India had even withdrawn such cases against the violators of the orders imposed to contain the COVID, after the epidemic was over. On the contrary, to conduct trial of the petitioners would not serve the ends of justice. This Court is of the considered opinion that the petitioners have made out a case to seek quashment of the charge sheet filed against them and pending before the court of learned Judicial Magistrate (Munsiff) Gool in a case titled '*UT of J&K v. Mohd. Shafi & Ors.*' arising out of FIR No. 39/2021 for offences under Sections 188/34 IPC & 51 DM Act registered at P/S Gool.

8. Viewed thus, to prevent the abuse of process and to secure the ends of justice, the petition is allowed and impugned charge-sheet arising out of FIR No.39/2021 of Police Station Gool, pending on the files of Judicial Magistrate, Gool, is hereby ordered to be quashed. As a result, petitioners bail and personal

bonds executed, if any, before the trial court shall also stand discharged. A copy of this order be forwarded to the Trial Court for its record and compliance.

9. Petition alongwith connected application(s) is, disposed of, as **allowed.**

(M A Chowdhary)
Judge

Jammu
08.08.2025
Raj Kumar

