2025:AHC:174539-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 21834 of 2025

Afaq Ahmad .....Petitioner

Versus

State of U.P. and others .....Respondents

Counsel for Petitioners	:	Mr. Syed Shahnawaz Shah, Advocate
Counsel for Respondents	:	G.A.

RESERVED

Court No. - 42

HON'BLE J.J. MUNIR, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. By this writ petition under Article 226 of the Constitution, the petitioner has moved this Court to quash the impugned First Information Report (for short, 'FIR'), giving rise to Case Crime No.421 of 2025, under Sections 299 and 353(3) of the Bharatiya Nyay Sanhita, 2023 (for short, 'the BNS'), lodged against him by Sub-Inspector Prashant Singh, respondent No.3.

2. The impugned FIR was lodged by Prashant Singh, a Sub-Inspector of Police, posted at Police Station Chandpur, District Bijnor, saying that on 23.07.2025, Case Crime No.414 of 2025, under Sections 296, 352, 351(2) BNS, was registered against Arif son of Faruq. During investigation on 24.07.2025, Sections 123, 64(1), 318(4) and 336(3) BNS, besides Section 3 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (for short, 'the Unlawful Conversion of Religion Act, 2021'), were added to the crime. Arif was arrested and produced before the Court. The petitioner, making this arrest of his brother in the case

crime last mentioned a foundation for disturbing communal peace and outraging religious feelings of a class of citizens of India, maliciously sent an inflammatory message to individuals on their mobile phones. The message sent out by the petitioner is quoted verbatim in the FIR. It is said in the FIR that about the inflammatory message sent out by the petitioner, the first informant gathered information in Town Chandpur, and, in consequence, on 30.07.2025, one Ameer Azam told the informant that about seven days ago, he too had received a message from the petitioner, using WhatsApp No. 9548080007. According to Azam, the inflammatory WhatsApp post was received on his mobile No. 9897164460. The informant was also apprised that there was a timer in the app, which had deleted the post, but Azam had saved a screenshot of the same, which he shared with the first informant. The first informant took five screenshots and then seized Azam's mobile device, placing it in a sealed transparent container. The impugned FIR says that the petitioner, with a view to disturb communal harmony and to instill hatred with the malicious intention of outraging religious feelings of a class of citizens, sent the inflammatory post to different mobile phones, owned by locals of Chandpur. It is on this information that the impugned FIR was registered.

3. Heard Mr. Syed Shahnawaz Shah, learned Counsel for the petitioner in support of this petition and Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate appearing on behalf of the State respondents.

4. It is argued by Mr. Shah that the petitioner's brother, Arif son of Faruq Ansari, was reported to the Police by Sandeep Kumar @ Sandeep Kaushik on absolutely frivolous allegations regarding religious conversion of women, though not a single name of any woman was mentioned in the FIR, who was allegedly converted. He submits that nevertheless Sections 123, 64(1), 318(4) and 336

BNS and Section 3 of the Unlawful Conversion of Religion Act, 2021 were added to the FIR and Arif sent to Jail in order to disturb communal harmony and public peace. It is argued that now it is the petitioner's turn to be implicated after his brother, which has led to the FIR. It is argued that a bare reading of the entire post quoted in the FIR shows that it does not carry any inflammatory contents. It only shows resentment about his brother's arrest. It is also argued that the post shows that the petitioner has complete faith in the judicial process. The post, it is pointed out by Mr. Shah, also says that a false story has been floated without verifying facts, which has tarnished the image of his family and impacted their business. The post, subject matter of the impugned FIR, is not designed to disturb public peace, tranquility or communal harmony in any manner. It is also argued that Arif has been granted bail by the Court below. The impugned FIR does not disclose any offence against the petitioner.

5. Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate, has vehemently opposed the motion to admit this petition to hearing.

6. We have considered the submissions advanced by learned Counsel for the parties.

7. The words of the post quoted in the FIR may not speak *per se* about religion, but definitely conveys an underlying and subtle message that his brother has been targeted in a false case, because of him belonging to a particular religious community. These unsaid words in the message *prima facie* would outrage religious feelings of a class of citizens hailing from a particular community, who would think that they are being targeted because of belonging to a particular religious community.

8. Quite apart, and, even if one were to think that no religious feelings of a class of citizens or community have been outraged, *per se* by the WhatsApp message, it is certainly a message, which, by its unsaid words, is likely to create or promote feelings of enmity, hatred and ill-will between religious communities, where members of a particular community, in the first instance, could think that they are being targeted by members of another religious community by abusing the process of law. The act may not be within the mischief of Section 353(3), but *prima facie* would attract Section 353(2) BNS. Bearing in mind the overall context of the FIR and the manner in which the petitioner has acted in sending out WhatsApp messages to a multitude of persons, that has the potential above noted, we are of opinion that the petitioner is not entitled to grant of relief under Article 226 of the Constitution, interdicting investigation in any manner or any of its processes.

9. In the totality of circumstances, we are of opinion that this is a matter, which requires investigation and cannot be scuttled at an incipient stage, foreclosing probe that must be carried to its logical conclusion.

10. In the result, this petition fails and is **dismissed**.

(Pramod Kumar Srivastava,J.) **(J.J. Munir,J.)**

September 26, 2025
Anoop