

15/12

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL
MR. JUSTICE JAMAL KHAN MANDOKHAIL

Criminal Petition Nos. 1313-L, 1314-L & 1315-L OF 2021
(On appeal against the judgment dated 26.08.2021 passed by the
Lahore High Court, Lahore in Crl.Misc.Nos.18739-B & 18744-B of
2021)

Rohan Ahmad (Crl.P.1313-L/21)
Usman Ahmad (Crl.P.1314-L/21)
Tariq Ahmad Shahzad (Crl.P.1315-L/21)

... Petitioner(s)

VERSUS

The State, etc. (in all cases)

... Respondent(s)

For the Petitioner(s)
(in all cases)

: Sh. Usman Karim-ud-Din, ASC
Miss Hina Jilani, ASC
Mr. Arshad Nazir Mirza, ASC
Mirza Mehmood Ahmed, ASC

For the State

: Syed Nayyab Hussain Gerdezi, DAG
Mehmood-ul-Hasan, D.D.(FIA)
Mudassar Shah, D.D. (FIA)
Naveed Aslam, S.I. (FIA)

For the Complainant

: Mr. Muhammad Shahid Tasawar, ASC

Date of Hearing

: 21.04.2022

ORDER

Mazhar Alam Khan Miankhel, J. Petitioners have called
in question order dated 26.08.2021, passed by the Lahore High Court,
Lahore, whereby bail was refused to the petitioners (in all petitions) in
case FIR No. C-29 dated 26.05.2020, offence under section 11 of the
Prevention of Electronic Crimes Act, 2016 and sections 295B, 298C,
120B, 34, 109 PPC, registered at P.S. FIA, Cyber Crime Reporting
Centre, Lahore.

2. Precise allegation against the petitioners, as per contents of FIR registered on the complaint of Muhammad Shakeel, Advocate, is that he received a message on his cell numbers from an unknown number through WhatsApp regarding essay writing and quiz program. Later on contacting with the sender, the complainant was told by the caller about a quiz contest with the name of *Sultan ul Qalam* and invited the complainant to join link on website, which he shared with him. The link led to another link where certain books were available for downloading including Holy Quran with the name of *Tafseer e Sagheer*. On reading the book *Rohani Khazain*, the complainant found blasphemous content. It was also found by him that Holy Quran *Tafseer e Sagheer* was also carrying desecrated translation and a number of books were banned by Punjab Government. The complainant took snapshots of the material and also took note of the links and then reported the matter to FIA. After some enquiry, the FIA team raided the house of the petitioner Rohan and recovered mobile set containing number 03224374750. From the house, printed material, banned books etc were also recovered. It was found by the FIA team that the material and banned books were also shared on an open link to public and anyone could have gone through the link and read those books and material. During investigation, petitioner Rohan admitted that being *Nazim Taleem Majlis Khuddam ul Ahmadiya* he was responsible for organizing competitions and to upload the content. He disclosed that it was all done under the supervision and assistance of petitioners Usman and Hafiz Tariq Ahmad respectively.

3. Learned counsel for the petitioners addressed the Court at length. The main premise of their arguments was that the case is a fake one and the complainant in connivance with FIA authorities have planted all the material upon the petitioner Rohan and the other two petitioners have been made scapegoat for the sake of tightening the stranglehold around the necks of the petitioners; and that the complainant has a history of lodging such like complaints or to come forward as witness in similar cases; that the motive behind such conduct of complainant is his utter hatred of the religious beliefs of the petitioners. Learned counsel further contended that mischief of sections 295A, 295B & 295C of PPC

is not attracted to the case of petitioners and if at all, the prosecution at all costs wanted to prosecute the petitioners, a case under section 9 of the Punjab Holy Quran (Printing and Recording) Act, 2011 and under section 5 of the Criminal Law Amendment Act, 1932 had to be registered, punishment whereof is three years and six months respectively. Learned counsel for the petitioners further contended that there is nothing on record which could connect the petitioner Rohan and others with the commission of alleged offence; that the message he allegedly sent through WhatsApp was meant for only the members of the Group and he was not at all disseminating his or his community's religious beliefs; that the complainant has cooked up an altogether fictitious story to rope the petitioners in this case.

4. Learned counsel for the complainant and learned Deputy Attorney General, on the other hand, forcefully opposed the prayer of the petitioners for grant of bail mainly on the ground that charge has already been framed by the trial Court; that there is sufficient forensic material available on record connecting the petitioners with the alleged offence; that there is no denying the fact and not even rebutted by the petitioners' learned counsel that the material and the books shared and recovered from the possession of petitioner Rohan have been banned by the Punjab Government, as is evident from the report of the *Mutahida Ulema Board*; that the provisions of the Punjab Holy Quran (Printing and Recording Act), 2011 is not attracted as it is only meant with registered publishers and not ordinary criminals and that it was a willful act on the part of the petitioner Rohan and others to disseminate their religious views, material and banned books containing blasphemous content.

5. Heard the learned counsel for the parties at length and have perused the available record with their assistance. The prosecution case against the petitioners starts from a WhatsApp message allegedly sent by petitioner Rohan from his cell number to the number of the complainant. Learned Deputy Attorney General under instructions of the investigating officers present with record has confirmed that during investigation it was found that petitioner Rohan Ahmad used to publically upload proscribed defiled translation of the Holy Quran, *Tafseer-e-Sagheer*,

blasphemous books i.e. *Rohani Khazain* and others through google drive and also created a google link "*Sultan-ul-Qalam*" and disseminated it through WhatsApp number, which is registered against his name. The learned Law Officer further stated under instructions that petitioner Usman Ahmad used to provide blasphemous content for online competitions through an email address and the number mentioned in that email is registered against his name; that he also created WhatsApp Group Emergency *Majlis Khuddam-ul-Ahmadiyya*; that he used to supervise and pass instructions regarding the quiz competitions through WhatsApp and he disseminated "*Sultan-ul-Qalam*" and defiled translation of the Holy Quran through WhatsApp. As regards role of petitioner Tariq Ahmad Shahzad, learned Deputy Attorney General, under instructions, states that during investigation it was found that he prepared the quiz questions and papers of proscribed material "*Sultan-ul-Qalam*" and disseminated the same to petitioners Rohan Ahmad and Usman Ahmad through his email. So far as the contention of petitioners' counsel that the quiz was meant only for members of the group and not for public circulation and submissions regarding mischief of various legal provisions to the present case are concerned, suffice it to observe that at bail stage we are not meant to dig deep into the evidence or to scrutinize factual aspects of the case, which certainly is the responsibility of the trial court and requires evidence to be adduced from both sides. In case this Court enters into the realm of the trial court during bail stage, it would be disadvantageous for both sides and would certainly prejudice the case of either side. Therefore, we restrain ourselves from commenting on the merits of the case and find that *prima facie* the prosecution has sufficient material on record to connect the petitioners with the alleged crime and in the circumstances, they are not entitled for grant of bail.

6. For the foregoing, the instant criminal petitions having no merit are dismissed and leave to appeal is refused.

7. At this stage, it has been observed by us that there are certain observations in the impugned order, which have the tendency of prejudicing the case of petitioners before the trial Court. Therefore, we

expect that trial of the case shall be conducted and concluded by the trial Court strictly in accordance with law, without being prejudiced/influenced by any observation contained in the impugned order of the learned High Court.

ANNOUNCED IN OPEN COURT ON 28/04/2022

...gnabad,
NOT APPROVED FOR REPORTING
s/-