

Sr. No. 103

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(THROUGH VIRTUAL MODE)**

CRM(M) No.405/2020
CrlM Nos1528 & 1529 of 2020

Deepika Singh Rajawat

.....Petitioner(s)

Though :- Mr. P.N.Raina, Sr. Advocate with
Mr. J.A.Hamal, Advocate (through
virtual mode)

V/s

Union territory of J&K and others

.....Respondent(s)

Through :-

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

CrlM No.1529/2020

Instant application seeking extension of time for annexing/depositing the requisite court fee with the petition, in view of the grounds urged therein, is allowed. The petitioner shall deposit the requisite court fee with the Registry of this Court within a period of one week from the date of pronouncement of lifting of lockdown on account of COVID-19 by the Government.

Application is disposed of.

CRM(M) No.405/2020

1. Issue notice to the respondents. At this stage, Mr. Aseem Sawhney, learned AAG accepted notice on behalf of respondent Nos.1 to 4. Notice be issued to respondent No.5 through concerned Police Station.
2. I have heard learned senior counsel appearing for the petitioner and Mr. Aseem Sawhney, learned AAG appearing for respondent Nos. 1 to 4 on the question of grant of interim relief to the petitioner.
3. Through the medium of instant petition the petitioner is challenging FIR No.174/2020 for offences under Section 295-A and 505(2) IPC registered at Police Station, Gandhi Nagar, Jammu.
4. It is the case of the petitioner that she, in order to condemn and highlight the increasing instances of rape in India, tweeted a picture showing an image of a woman being revered during the time of Navratras and being sexually assaulted during rest of the year from her tweeter handle. A photocopy of the image has been placed on record by the petitioner. It is further averred that on the basis of this tweet, a false and frivolous FIR, which is subject matter of the instant petition, has been registered against the petitioner.
5. It has been contended by learned Senior Counsel appearing for the petitioner that, if we have a look at the image that was tweeted by the petitioner, it does not, in any manner, hurt the religious feeling of any community, inasmuch as it simply depicts that the women are being revered during Navratras festival, whereas similar treatment is not given to them during rest of the days of the year. The learned Senior Counsel has relied upon a judgment of the Supreme Court rendered in the case of ***Mahendra Singh Dhoni v. Yerraguntla Shyamsundar, (2017) 7 SCC 760*** to canvass his point that Section 295-A IPC penalizes only those acts of insult to or those varieties

of attempts to insult the religion or religious beliefs of a class of citizens, which are perpetrated with deliberate and malicious intention of outraging the religious feelings of that class of citizens. According to the learned senior counsel, in the instant case the picture tweeted by the petitioner does not have the effect of hurting the religious feelings of a community.

6. Learned Senior Counsel for the petitioner, on the basis of submissions noted herein before, has vehemently contended that the investigation of the FIR is required to be stayed at this stage.

7. On the other hand, learned AAG has submitted that the petitioner has herself admitted in her petition that as a reaction to her aforesaid tweet, a particular outfit felt agitated and they held demonstration in front of her residence as a consequence whereof she had to approach the police for her protection. On this basis, learned AAG has submitted that, at this stage, it cannot be stated that the act of the petitioner has not hurt the feelings of any section of the community.

8. At this stage, it may not be appropriate to go into the merits of the rival contentions of the parties and it will also be not proper to interfere in the investigation of the FIR, which is stated to be at its infancy. However, before a final view is taken in the matter by the Investigating Agency, this Court needs to go into the issues raised in the instant petition. It is pertinent to note here that in the instant FIR, the petitioner stands already protected inasmuch as she has been admitted to anticipatory bail by the learned Principal Sessions Judge, Jammu.

9. In the aforesaid circumstances, it is directed that the investigation in the FIR may continue but the final report shall not be filed by the

Investigating Agency before the competent Court without permission of this Court.

10. By the next date of hearing respondent Nos. 1 to 4 shall file their response/status report.

11. List on 09.02.2021.

(SANJAY DHAR)
JUDGE

Jammu
25.11.2020
Vinod

