



1

MCRC-1001-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 4th OF AUGUST, 2026

MISC. CRIMINAL CASE No. 1001 of 2026

SHAILENDRA KUMAR JAIN

Versus

THE STATE OF MADHYA PRADESH

.....
Appearance:

Shri Zamir Mohammad Shah - Advocate for the petitioner.

Shri B.D. Singh - Deputy Advocate General for respondent/State.

.....
WITH

MISC. CRIMINAL CASE No. 49886 of 2023

ANAS ATHAR AND OTHERS

Versus

THE STATE OF MADHYA PRADESH

.....
Appearance:

*Shri Shashank Shekhar - Senior Advocate with Shri Samresh Katare - Advocate
for the petitioners.*

Shri B.D. Singh - Deputy Advocate General for respondent/State.

.....
MISC. CRIMINAL CASE No. 52398 of 2025

ABDUL WASIM BARI

Versus

THE STATE OF MADHYA PRADESH

.....
Appearance:

Shri Zamir Mohammad Shah - Advocate for the petitioner.

Shri B.D. Singh - Deputy Advocate General for respondent/State.

.....
ORDER

Since all the three cases arise out of the same Crime No.498/2023



registered at Police Station Kotwali, District Damoh, and involve substantially common questions of fact and law, they are being heard together and are being disposed of by this common order. The commonality of the proceedings is further evident from the fact that the allegations in all the petitions emanate from the same enquiry conducted pursuant to complaints concerning Ganga Jamuna Higher Secondary School, Damoh, and the applicants in the respective petitions have challenged the same FIR and/or the consequential criminal proceedings on substantially overlapping grounds.

2. In M.Cr.C. No.1001/2026, the applicant Shailendra Kumar Jain has invoked the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashment of FIR dated 07.06.2023 registered as Crime No.498/2023 at Police Station Kotwali, Damoh, initially for offences punishable under Sections 295-A, 120-B and 506 Part-II of the Indian Penal Code and subsequently under Sections 75 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 3 and 5(1) of the Madhya Pradesh Freedom of Religion Act, 2021.

3. The applicant states that a society known as Ganga Jamuna Welfare Society was registered under the M.P. Society Registrikaran Adhiniyam, 1973 and was running Ganga Jamuna Higher Secondary School at Damoh. According to the applicant, an eleven-member committee was constituted for management of the school. The applicant was a member of the committee in the year 2020, as reflected from Annexure A-5, but was not included in the committee subsequently constituted for the period 01.04.2023 to 01.04.2026,



a copy whereof has been filed as Annexure A-6.

4. It is further pleaded that certain members of Bajrang Dal had been agitating against the school and had submitted complaints before the authorities. On 06.06.2023, an incident allegedly occurred outside the office of the District Education Officer, Damoh, wherein certain persons are stated to have intercepted the vehicle of the District Education Officer, thrown ink on him and threatened him. The FIR relating to the said incident was registered as Crime No.495/2023, a copy of which has been filed as Annexure A-7. According to the applicant, thereafter communal tension arose in the town and an enquiry committee was constituted by the Collector, Damoh. On the basis of the enquiry report, the FIR in question came to be registered.

5. The applicant further submits that the Principal, teacher and peon of the school were arrested and subsequently released on bail. The applicant and certain other persons were also arrested and were granted bail by the learned Additional Sessions Judge, Damoh. One of the conditions imposed was appearance before the concerned police station on every seventh day. According to the applicant, there is no material against him except the memorandum of co-accused Afsa Sheikh recorded under Section 27 of the Evidence Act. It is also stated that the charge-sheet was filed against Afsa Sheikh, Anas Athar and Rustam and the matter proceeded as S.T.No.54/2023. The affidavits allegedly submitted by the complainant side/parents of students stating that the books supplied were Government-prescribed books and that no religious education beyond the syllabus was



imparted have been filed as Annexure A-10.

6. Learned counsel appearing for the applicant Shailendra Kumar Jain submits that the applicant was not a member or office bearer of the management committee at the relevant time and, therefore, there could be no basis for attributing to him the alleged acts committed in the school. It is argued that the FIR itself discloses that the informant was the Investigation Committee/Inspector on behalf of the Collector's Office and not a person who was allegedly converted or an aggrieved person or his/her relative. According to learned counsel, in view of Section 4 of the Madhya Pradesh Freedom of Religion Act, 2021, the police had no jurisdiction to enquire into or investigate an offence under Section 3 of the said Act in the absence of the requisite written complaint. Reliance has been placed upon the order passed by this Court in **M.Cr.C. No.24589/2023, Jerald Almeda and another Vs. State of Madhya Pradesh**.

7. Learned counsel further submits that merely requiring girl students to wear Hijab or a particular dress cannot constitute conversion or an attempt to convert within the meaning of the Madhya Pradesh Freedom of Religion Act. It is urged that the ingredients of Section 75 of the Juvenile Justice Act are also absent since the applicant was neither in actual charge nor in actual control of the children. Consequently, Section 87 of the said Act, which relates to abetment, would also not be attracted. It is also argued that the applicant has been compelled to appear before the police station every seventh day since 2023, causing serious hardship, although no charge-sheet has been filed against him.



8. In M.Cr.C. No.52398/2026, the applicant Abdul Wasim Bari has also invoked Section 528 of the BNSS for quashing the very same FIR bearing Crime No.498/2023. The applicant states that he is a resident of Damoh and is engaged in business. His case, on facts, is substantially similar to that of Shailendra Kumar Jain. The management committee of the year 2020, showing the applicant as a member, has been filed as Annexure A-5, whereas the subsequent committee for the period 01.04.2023 to 01.04.2026, in which he was not an office bearer, has been filed as Annexure A-6. The applicant Abdul Wasim Bari also refers to Crime No.495/2023 concerning the incident with the District Education Officer and submits that the subsequent FIR in Crime No.498/2023 was the result of communal tension and an enquiry conducted by the authorities.

9. Learned counsel for Abdul Wasim Bari submits that the applicant was not an office bearer of the school at the relevant time and there is no specific allegation showing his participation in the alleged acts. It is contended that the investigation under the Madhya Pradesh Freedom of Religion Act was without jurisdiction in view of Section 4 of the Act, since the FIR was lodged by the enquiry committee/investigating officer and not by a person converted, a person against whom an attempt at conversion was made, or the persons contemplated by the statutory provision. Learned counsel further submits that there is no allegation or material demonstrating actual conversion or an attempt to convert any child and that wearing Hijab cannot, by itself, satisfy the statutory ingredients.

10. It is also argued that the ingredients of Sections 75 and 87 of the



Juvenile Justice Act are not made out against the applicant, particularly when he was not shown to have actual charge or control over any child. It is submitted that the applicant has been attending the police station every seventh day since 2023 and is suffering continuing hardship without any charge-sheet having been filed against him.

11. In M.Cr.C. No.49886/2023, applicants Anas Athar and Rustam Ali have challenged the FIR as well as the subsequent proceedings, including the order dated 18.08.2023 concerning cognizance/committal and the order dated 20.09.2023 whereby charges were framed. The applicants are a teacher and peon respectively at Ganga Jamuna Higher Secondary School, Damoh. According to them, the FIR dated 07.06.2023 was registered pursuant to the enquiry conducted by the Collector's Committee on the basis of statements of students. The FIR initially contained offences under Sections 295-A and 506 of the IPC and Sections 75 and 87 of the Juvenile Justice Act, whereas after investigation Sections 120-B IPC and Sections 3 and 5(1) of the Madhya Pradesh Freedom of Religion Act were also added. The applicants state that the charge-sheet was filed on 08.08.2023.. It is further stated that the prosecution sanction under Section 196 Cr.P.C. was granted only on 18.09.2023 and was produced before the trial Court on 20.09.2023.

12. Learned counsel appearing for Anas Athar and Rustam Ali submits that the order taking cognizance of the offence under Section 295-A read with Section 120-B IPC was passed without previous sanction under Section 196 Cr.P.C. and, therefore, the proceedings are vitiated. Reliance has been placed upon **General Officer Commanding v. CBI, Sarah Mathew v. Institute of**



Cardio Vascular Diseases, (2014) 2 SCC 62 and **Darshan Singh v. State of Maharashtra**, (1971) 2 SCC 654 to explain the meaning of cognizance. It is contended that subsequent sanction cannot cure the initial absence of jurisdiction.

13. Learned counsel further submits that Section 4 of the Madhya Pradesh Freedom of Religion Act bars investigation in the absence of a complaint by the person converted or the other persons specified therein. The applicants rely upon **Jerald Almeda and another Vs. State of Madhya Pradesh**, M.Cr.C. No.24589/2023, order dated 19.06.2023, wherein this Court had considered the statutory requirement concerning investigation under the said Act. It is also submitted that applicant No.1 is merely a teacher and applicant No.2 is a peon and there is no specific material showing their involvement in any act of religious conversion, cruelty or criminal conspiracy. The applicants also submit that no specific threat has been attributed to either applicant so as to constitute an offence under Section 506 Part-II IPC. They further contend that Sections 75 and 87 of the Juvenile Justice Act are not attracted.

14. Per contra, learned counsel for the State opposes all the petitions and submits that all three petitions arise out of the same FIR and that the prosecution has collected substantial material during investigation and trial disclosing *prima facie* involvement of the accused persons. It is submitted that the FIR was registered pursuant to an enquiry conducted by the Collector's Committee after complaints by students concerning the school. The allegations included compulsory wearing of Hijab by girl students, prohibition against wearing Tilak and Kalawa, compulsory teaching of Urdu



and recitation of prayers, coupled with allegations that such practices were imposed by threat and coercion.

15. Learned counsel for the State submits that the investigation subsequently resulted in filing of the charge-sheet and addition of Sections 120-B IPC and Sections 3 and 5(1) of the Madhya Pradesh Freedom of Religion Act. In the case of Anas Athar and Rustam Ali, it is submitted that the prosecution sanction under Section 196 Cr.P.C. was subsequently obtained and placed before the trial Court before framing of charge. The trial Court, after considering the material, found a *prima facie* case and framed charges.

16. As regards the objection relating to Section 196 Cr.P.C., learned counsel for the State relies upon **Dharmesh @ Nanu Nitinbhai Shah v. State of Gujarat**, (2002) 6 SCC 370, **State of M.P. v. Bhooraji**, (2001) 7 SCC 679 , **Kalp Nath Rai v. State**, (1997) 8 SCC 732 and **Nanjappa v. State of Karnataka**, (2015) 14 SCC 186, to contend that an objection regarding sanction cannot automatically result in quashing of the criminal proceedings, particularly when no failure of justice has been demonstrated and the requisite sanction was subsequently obtained.

17. With regard to the Madhya Pradesh Freedom of Religion Act, learned counsel for the State submits that Section 3 of the Act covers not merely completed conversion but also an attempt to convert by force, coercion, undue influence or other prohibited means. According to the State, the material collected during investigation is sufficient at this stage to disclose the alleged attempt and coercive conduct. It is submitted that Section 4



cannot be interpreted in isolation so as to prevent investigation into every cognizable offence under the Act where the allegations concern an attempt to convert.

18. As regards Sections 75 and 87 of the Juvenile Justice Act, it is submitted that the applicants were employed in the school and were alleged to have acted in furtherance of the acts complained of. The second proviso to Section 75 and the explanation to Section 87, according to the State, make the provisions applicable on the facts disclosed in the charge-sheet. It is accordingly prayed that all the petitions be dismissed.

19. Heard learned counsel for the parties and perused the record.

20. In the present case, the FIR contains specific allegations concerning the manner in which the students were allegedly required to follow a particular dress code and religious practices and further alleges that such acts were imposed against their wishes and by threat or coercion. The FIR specifically records the statement of a student that she had been studying in the school from nursery on wards; that from Class VI on wards Hijab and Dupatta formed part of the prescribed dress; that wearing Hijab was compulsory; that students were allegedly stopped from wearing Tilak and Kalawa; that Urdu was taught compulsorily; and that prayers were recited during assembly. The FIR further alleges that these practices were imposed by threatening the students and that the complainant's religious sentiments were thereby hurt.

21. The contention of the applicants that the allegation of wearing Hijab by itself cannot constitute an offence under the Madhya Pradesh Freedom of Religion Act is, in isolation, unexceptionable. Mere wearing of a particular



dress, without the statutory ingredients of conversion or an attempt to convert by the prohibited means, cannot automatically constitute an offence. However, the prosecution case is not founded solely upon the wearing of Hijab. The allegations include compulsory dress, alleged prohibition of Tilak and Kalawa, compulsory religious practices and prayers, and allegations of threat and coercion. Whether these allegations are true, whether they were voluntary or compulsory, whether they were motivated by an intention to convert and whether the statutory ingredients are ultimately established are matters which depend upon appreciation of evidence.

22. The reliance placed by the applicants on the decision in **Jerald Almeda and another Vs. State of Madhya Pradesh, M.Cr.C. No.24589/2023**, order dated 19.06.2023, also does not justify quashing of the entire prosecution at this stage. The said decision was rendered on the facts and statutory material placed before the Court therein. The question whether the present investigation under the M.P. Freedom of Religion Act is wholly without jurisdiction and whether the allegations concern completed conversion or an attempt to convert, in the context of the material collected in the present case, cannot be conclusively determined by selectively reading the FIR while ignoring the statements and other material collected during investigation.

23. The argument that the informant was the enquiry committee/investigating officer and not the alleged victim also requires examination in the context of the exact allegations and the statutory scheme. The State has specifically contended that the allegations concern an attempt to convert and that the Act makes the relevant offences cognizable. Whether



Section 4 operates in the precise manner suggested by the applicants on the facts of the present case involves an interpretation of the statutory provisions in the factual setting of the allegations. More importantly, the prosecution has relied upon statements of students and other witnesses collected during investigation. Therefore, it cannot presently be held that the entire prosecution under the Act is *ex facie* void solely on the ground urged by the applicants.

24. The contention regarding Section 75 of the Juvenile Justice Act also cannot be accepted at this stage. However, the statutory provision itself contains a specific consequence where the alleged offence is committed by a person employed by or managing an organisation entrusted with the care and protection of children. Whether the individual applicants fall within the statutory description and whether the acts attributed to them constitute cruelty within the meaning of Section 75 are questions dependent upon the evidence.

25. So far as Sections 295-A and 120-B IPC are concerned, the applicants in M.Cr.C. No.49886/2023 principally challenge the proceedings on the ground that sanction under Section 196 Cr.P.C. was not available when cognizance was initially taken. It is not in dispute that the sanction order was subsequently obtained on 18.09.2023 and was placed before the trial Court on 20.09.2023, prior to framing of charges. The applicants contend that such subsequent sanction cannot validate the earlier proceedings, whereas the State relies upon the judgments referred to hereinabove. In **Dharmesh @ Nanu Nitinbhai Shah** (*supra*), the Supreme Court considered the effect of



production of sanction after committal and declined to interfere where the alleged defect would only result in sending the matter back for a fresh committal, observing that such exercise would cause further delay without corresponding advantage to the accused.

26. There is yet another important circumstance. As disclosed in the State's reply, the trial arising out of Crime No.498/2023 has substantially progressed and, as stated, 32 out of 33 prosecution witnesses have already been examined. Though the present Court is not expressing any opinion on the merits of the evidence recorded during trial, such advanced stage of the proceedings is a relevant circumstance while considering whether the extraordinary inherent jurisdiction should be exercised to terminate the prosecution.

27. The contention of the applicants that certain parents or students subsequently furnished affidavits stating that the books supplied to the students were Government-prescribed books and that no religious education beyond the syllabus was imparted cannot, by itself, furnish a ground for quashing the FIR. Such affidavits constitute material which may be considered by the trial Court along with the statements recorded during investigation and the evidence already adduced. This Court, in exercise of Section 528 BNSS, cannot select one piece of material and reject the remaining prosecution material for the purpose of determining whether the accused are ultimately guilty or innocent.

28. Insofar as applicants Shailendra Kumar Jain and Abdul Wasim Bari are concerned, their principal contention is that they were not members/office



bearers of the management committee at the relevant time. The documents filed as Annexures A-5 and A-6 may support their defence that they were not members of the subsequently constituted committee. However, the prosecution has alleged their involvement and has relied upon the material collected during investigation. Whether the applicants had any role in the affairs of the school during the relevant period, whether they exercised any influence over its functioning, and whether the material collected by the investigating agency is sufficient to attribute the alleged offences to them are essentially factual questions.

29. Upon consideration of the entire material, this Court finds that the allegations in the FIR, read with the material collected during investigation, cannot be said to be inherently absurd, inherently improbable or incapable of constituting the offences alleged. The defence raised by the applicants involves disputed questions of fact, appreciation of statements of students and other witnesses, the role played by individual accused persons, the nature of the alleged conduct and the applicability of the statutory provisions to the proved facts. These matters fall within the domain of the trial Court.

30. Accordingly, M.Cr.C. No.1001/2026 filed by Shailendra Kumar Jain, M.Cr.C. No.49886/2023 filed by Anas Athar and Rustam Ali, and M.Cr.C. No.52398/2026 filed by Abdul Wasim Bari are hereby **dismissed**.

(HIMANSHU JOSHI)
JUDGE