

News

Affixing posters threatening panchayat members to resign not 'unlawful activity' under UAPA: J&K High Court



The Court dismissed an appeal filed by J&K Police against acquittal of an accused in the UAPA case. Jammu and Kashmir High Court

The Jammu & Kashmir and Ladakh High Court recently upheld the acquittal of a man in a case under Unlawful Activities (Prevention) Act (UAPA) for pasting posters threatening the Panchayat members to resign or face dire consequences.

A Division Bench of Justice Sanjeev Kumar and Justice Sanjay Parihar ruled that such act does not amount to a “unlawful activity” under Section 13 of the UAPA. It thus dismissed an appeal filed by the J&K Police against an acquittal order passed by an NIA Court in Anantnag last year.

"The writings on the offending posters were only aimed at and intended to intimidate elected

Panchs by extending them a threat that in case they do not resign from their positions they would be done away with. Such words in writing cannot be said to be intended to bring about cession or session of part of the territory of India from the Union nor does it disclaim, question, disrupt or is intended to disrupt any sovereignty and territorial integrity of India. These words can also be not understood to cause or intended to cause disaffection against India. Going by the plain definition of the term "unlawful activities" the act attributed to the respondent does not fall within the purview of the term of "unlawful activity" under Section 2(o) of the Act," the Court said.

Justice Sanjeev Kumar and Justice Sanjay Parihar

The accused Ghulam Mohammad Lone was booked by the police in 2012 on the basis of the information that the posters had been pasted on behalf of the proscribed organization Hizbul Mujahideen. However, the trial court in 2024 ruled that the prosecution had miserably failed to connect the accused with the alleged offence.

Considering the records, the High Court found that the key witnesses had not supported the prosecution case and were declared hostile. Nothing incriminating was elicited from them during cross-examination, it added. However, it noted that a Forensic Science Laboratory (FSL) expert had opined that Lone's handwriting was similar to that on the posters. "That is the only incriminating material that has come on record.

The rest of the prosecution witnesses are the Investigating Officers, who investigated the matter from time to time," the Court said. Thus, the High Court also concluded that alleged offence with which the accused was charged was not proved by any cogent evidence.

It also said that the ingredients of Section 13 of the UAPA were not made out. However, the Court opined that the trial court should have instead charged the accused under provisions of Ranbir Penal Code, the criminal code that was in force in J&K in 2012. "We could have remanded the matter back to the trial Court for framing such a charge, but having regard to the fact that respondent has already faced the ordeal of trial for more than eight years and, therefore it would not be appropriate to do so," the Court added. Senior Additional Advocate General Mohsin Qadri with Assisting Counsel Maha Majeed represented the State. Advocates Zahid Hussain Dar and Zahid Afzal appeared for the accused.