

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
CHADOORA**

File No: 146/2025

Date of Institution: 01.05.2025

CNR No. JKBG040001482025

Date of Order:- 03.05.2025

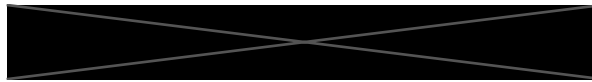
In the case of:

**Union Territory of Jammu and Kashmir,
Through Station House Officer,
Police Station, Nowgam, Srinagar.**

(Complainant/Applicant)

Versus

Riyaz Ahmad Sheikh



Srinagar.

(Accused person)

SHO P/S Nowgam, for the Applicant/Complainant (Through Prosecution)

Adv Asmat Zehra, for the accused.

CORAM: NAZIA HASSAN

JO CODE: JK00300

Complaint under Section 223 Bhartiya Nyaya Sanhita (BNS),

O R D E R

1. Heard the applicant and learned counsel for the accused.
Perused the record of the case.
2. This complaint was filed before this Court on 01.05.2025 by
SHO P/S Nowgam. Upon presentation, an office report was called
for and has since been duly perused. The file is found to be in
order. Accordingly, the same is diarized and entered in the
appropriate register.

3. Facts of the complaint, briefly stated, are that on 13.04.2025, a routine police patrolling was conducted near Peaks Lasjan NSW under the supervisions of SHO P/S Nowgam accompanied by other member of police. It is submitted that during the patrol, accused Reyaz Ahmad Sheikh was found verbally abusing pedestrians and passers-by in a loud and aggressive manner, creating public disorder. It is also submitted that accused was found in an intoxicated/injured condition and was behaving in a disruptive manner, thereby violating public peace. It is further submitted that to prevent public disturbance, the police took accused into the protective custody and escorted him to Govt. SMHS hospital Karan Nagar Srinagar for medical evaluation. It is further submitted that after required medical legal formalities, accused was THC +ve after proper screening proving intoxication. After completion of the requisite formalities, the accused was handed over to his legal heir. Hence the complaint.

4. Before proceeding further, it is pertinent to reproduce Section 355 of the Bharatiya Nyaya Sanhita (BNS), which states as follows:-

“Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to

twenty-four hours, or with fine which may extend to one thousand rupees, or with both or with community service."

5. Upon reading over and explaining the substance of the accusation to the accused, he voluntarily pleaded guilty to the offence. The Court, in compliance with legal safeguards, informed him that he was not bound to plead guilty and that such a plea would be admissible in evidence and could result in his conviction. He was given sufficient time and opportunity to reconsider his decision. Despite this, the accused unequivocally reaffirmed his intention to plead guilty, submitting that this plea was made voluntarily, without any coercion or undue influence. He further requested that a lenient view be taken, having regard to his profession as a driver and his age.

6. In view of the voluntary and informed confession made by the accused, this Court finds him guilty and convicts him under Section 355 of the Bharatiya Nyaya Sanhita, 2023.

7. Having held accused guilty of the offence under section 355 BNS, the Court now proceeds to consider the appropriate sentence to be imposed. Section 355 BNS provides for simple imprisonment, fine, or community service as modes of punishment.

8. It must be borne in mind that sentencing is not solely about punishment; it is about balance between accountability and fairness, deterrence and rehabilitation. Justice is not an end but a continuous pursuit, echoing beyond the courtroom.

9. The offence under Section 355 of the Bharatiya Nyaya Sanhita (BNS) directly impacts public order. Upholding public order is not merely a statutory obligation but a constitutional duty imposed upon every citizen. Acts that disturb societal peace undermine the very fabric of constitutional governance.

10. Consumption of alcohol in public places, particularly when it leads to criminal behavior, poses a direct threat to public order and safety. Intoxication often impairs judgment, lowers inhibitions, and can result in verbal or physical altercations, creating a sense of fear or discomfort among the public. Such conduct disturbs peaceful enjoyment of public spaces. Maintaining public order is essential in any civilized society, and it becomes imperative to address behavior arising from intoxication that can injure both social harmony and the rule of law.

11. In this context, this Court undertook an exercise of examining the convict's understanding of his duties toward public envisaged under the chapter on Fundamental Duties by confronting him with related questions; the convict has admitted to having no knowledge of his duties enshrined in Article 51-A of the Constitution of India. This admission reflects the issue of constitutional illiteracy and lack of awareness particularly among the marginalized sections of society, including those who are economically and educationally disadvantaged. Such ignorance poses a serious challenge to the realization of constitutional ideals and effective functioning of a participatory democracy.

12. The Fundamental Duties enshrined in Article 51-A serve as a moral and ethical compass for responsible citizenship. While the Constitution confers various rights upon individuals, it also imposes corresponding duties. A large segment of society remains unaware of these duties due to illiteracy and inadequate awareness campaigns.

13. Considering the nature of the offence and the convict's circumstances, this Court is of the opinion that a sentence of imprisonment or fine would not serve the rehabilitative purpose of justice. The provision for community service under Section 355 BNS presents a meaningful opportunity to use the sentencing process as a means for public education and mass sensitization about constitutional duties. Accordingly, this Court sentences accused to community service, aimed at promoting awareness about the Fundamental Duties, a subject on which the convict himself lacks knowledge.

14. The convict shall report to the Station House Officer, Police Station Nowgam, within **48 hours** from the pronouncement of this Order. The SHO shall deploy the convict for community service in public areas such as markets, roadsides, and bus stands, under his personal supervision, on **05.05.2025**, from **10:00 AM to 4:00 PM**. During this time, the convict shall distribute **200 copies** of A4-sized pamphlets (the master copy of which shall be provided by this Court along with a copy of this Order), containing the

verbatim the Fundamental Duties as per Article 51A of the Constitution of India, as follows:-

Know Your Fundamental Duties

As Enshrined in Article 51A of Part IVA of the Constitution of India

Article 51A

Fundamental duties

It shall be the duty of every citizen of India —

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement;
- (k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

(Issued under directions of the Court Of Judicial Magistrate First Class Chadoora for public awareness and constitutional literacy.)

15. Additionally, 100 copies of translated version of the above in Kashmiri/ Urdu language (50 each), master copy whereof shall be provided by this court along with copy of this order, shall also be distributed amongst the public at the time of distribution of English version, as directed above. This shall cater to the public which is not illiterate with the English Language.

16. The Station House Officer, Police Station, Nowgam, shall ensure all the necessary arrangements for the execution of the community service, supra, are taken and under his personal supervision.

17. A compliance report shall be submitted to this Court on or before **09.05.2025**.

18. The objective of this direction is to spread awareness among the public regarding the Fundamental Duties of every citizen as enshrined in the Constitution of India.

19. The learned Public Prosecutor is directed to communicate this Order, along with the master copy of the pamphlet, to the Station House Officer, Police Station Nowgam, for immediate compliance.

20. Application is accordingly disposed off. Be consigned to records after its due compilation.

Signed, Sealed, and Announced
In open court on this 3rd Day of
May, 2025.

(NAZIA HASSAN)
JUDICIAL MAGISTRATE 1ST CLASS CHADOORA