

Neutral Citation No. - 2025:AHC:123303

Reserved on-10.07.2025

Delivered on-24.07.2025

Court No. - 82

Case :- APPLICATION U/S 482 No. - 12417 of 2023

Applicant :- Satya Narayan Rajbhar And 4 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Uday Narain Singh

Counsel for Opposite Party :- G.A., Sudist Kumar

Hon'ble Sameer Jain,J.

1. None appeared on behalf of the opposite party no.2 even in revised call.

2. Heard Shri Uday Narain Singh, learned counsel for the applicants and Shri Pradeep Kumar, learned A.G.A. for the State-respondent.

3. By way of instant application following prayer has been made:-

(i) Quash the charge sheet dated 10.12.2020 in criminal Case No.1071 of 2021 arising out of Case Crime No.202 of 2020 (State Vs Manoj Singh @Dabloo and others) under sections 188, 269, 270 I.P.C. & Section 3 Epidemic Diseases Act, 1897 and Section 54 of Disaster Management Act, 2005, Police Station-Chandauli, District-Chandauli pending in the court of Chief Judicial Magistrate, Chandauli.

(ii) Quash the cognizance order dated 13.12.2021 passed by Chief Judicial Magistrate, Chandauli in Criminal Case No.1071 of 2021 arising of Case Crime No.202 of 2020 (State Vs Manoj Singh @ Dabloo and others) under Sections 188, 269, 270 I.P.C. & Section 3 Epidemic Diseases Act, 1897 and Section 54 of Disaster Management Act, 2005, Police Station-Chandauli, District-Chandauli pending in the court of Chief Judicial Magistrate, Chandauli.

(iii) Stay the further proceeding of Criminal Case No.1071 of 2021 arising out of Case Crime No.202 of 2020 (State Vs Manoj Singh @ Dabloo and others) under Sections 188, 269, 270 I.P.C. & Section 3 Epidemic Diseases Act, 1897 and Section 54 of Disaster Management Act, 2005, Police Station-Chandauli, District-Chandauli pending in the court of Chief Judicial Magistrate, Chandauli as well as and

cognizance order dated 13.12.2021, during the pendency of the present application.

(iv) And/Or may pass such other and further order or direction which this Hon'ble Court may deems fit and proper under the facts and circumstances of the case; otherwise the applicant shall suffer irreparable loss and injury.

Brief facts of the case

4. FIR of the present case was lodged on 12.10.2020 against applicants and 5 others under Sections 188, 269 and 270 IPC, Section 3 Epidemic Diseases Act, 1897 and Section 54 Disasters Management Act, 2005 and as per allegation, on 12.10.2020 in the afternoon between 13:00 hours to 16:00 hours applicants and other named accused, who belonged to Samajwadi Party along with their 400 to 500 workers were agitating against the government without mask, social distancing and, therefore, they have committed offences under Sections 188, 269 and 270 IPC, Section 3 Epidemic Diseases Act and Section 54 Disasters Management Act.

5. After registration of the FIR, investigation was conducted and after investigation Investigating Officer submitted charge sheet on 10.12.2020 against applicants and others under Sections 188, 269 and 270 IPC, Section 3 Epidemic Diseases Act and Section 54 Disasters Management Act and thereafter on 13.12.2021 C.J.M., Chandauli after taking cognizance issued summons to the applicants and others. Hence, instant application.

Submissions made on behalf of applicants

6. Learned counsel for the applicants submitted that on the basis of false allegation only being members of Samajwadi Party, applicants have been roped in the present matter. He further submitted that in the present matter, FIR was also lodged against the applicants under Section 188 IPC and thereafter charge sheet was also filed against them for offence under Section 188 IPC along with other offences and court concerned after taking cognizance also issued summons to them but as per Section 195(1)(a)(i) Cr.P.C., no court can take cognizance for offence under Section 188 IPC on the basis of police report. He further submitted that as per Section 195(1)(a)(i) Cr.P.C., for offence under Section

188 IPC a court can take cognizance only on the basis of complaint in writing given by a public servant, therefore, charge sheet filed against applicants is bad and cognizance taken by the court concerned for the offence under Section 188 IPC is illegal.

7. He further submitted that however, along with offence under Section 188 IPC charge sheet against the applicants has also been filed for the offences under Section 269 and 270 IPC but from perusal of material collected by the Investigating Officer during investigation it is apparent that offences under Sections 269 and 270 IPC are not made out against the applicants.

8. He further submitted that for the offences under Sections 269 and 270 IPC, it is necessary that a person must be acted negligently likely to spread infection of disease dangerous to life but during investigation, Investigating Officer could not collect any evidence to show that applicants acted negligently to spread infection of disease dangerous to life and, therefore, charge sheet filed against the applicants under Sections 269 and 270 IPC is bad. Accordingly, cognizance order passed by the court concerned with regard to offences under Sections 269 and 270 IPC also becomes bad.

9. He further submitted that apart from the offences of Indian Penal Code, charge sheet has also been filed against the applicants under Section 3 Epidemic Diseases Act and Section 54 Disasters Management Act.

10. He further submitted that as there is no allegation that applicants either committed or abetted any act of violence against any healthcare service personnel or caused loss of any property, therefore, offence under Section 3 Epidemic Diseases Act is also not made out against them.

11. He further submitted that as far as offence under Section 54 Disasters Management Act is concerned, as per Section 60 Disasters Management Act (in short 'Act'), no court shall take cognizance for offence under this Act except on complaint made by public servant and, therefore, for the offence under Section 54 Disasters Management Act, cognizance could not be taken on police report submitted under Section 173(2) Cr.P.C. and,

therefore, charge sheet and cognizance order with regard to offence under Section 54 Disasters Management Act is also bad.

12. He further submitted that therefore, charge sheet filed against the applicants in the present matter as well as cognizance and summoning order passed by the court concerned are illegal and are liable to be quashed.

Submissions made on behalf of State

13. Per contra, learned AGA however, opposed the prayer but could not dispute the fact that as per Sections 195(1)(a)(i) Cr.P.C and 60 Disasters Management Act, cognizance could not be taken by the court concerned on the police report submitted under Section 173(2) Cr.P.C. with regard to offence under Sections 188 IPC and 54 Disasters Management Act as for these offences cognizance can only be taken on complaint made by public servant.

14. Learned AGA further could not dispute the fact that from perusal of the FIR and other material available on record, it could not be reflected that applicants acted malignantly or they acted negligently likely to spread infectious disease, which was necessary for the offences under Sections 269 and 270 IPC. However, learned AGA submits, as applicants violated government order and made agitation without wearing mask and maintaining social distancing, therefore, they committed offence under Section 3 Epidemic Diseases Act.

Analysis

15. By way of instant application applicants challenged the charge sheet filed against them for offences under Sections 269, 270 and 188 IPC, Section 3 Epidemic Diseases Act and 54 Disasters Management Act along with the cognizance order passed by court concerned, therefore, it is necessary to see whether alleged offences are made out and whether court concerned while taking cognizance committed any illegality.

16. First, I deal with offences under Sections 269 and 270 IPC.

Sections 269 and 270 IPC run as follows:-

Section 269 IPC

Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Section 270 IPC

Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

17. Therefore, from perusal of Sections 269 and 270 IPC, it is clear that for both the offences it is necessary that a person must act either unlawfully or negligently to spread the infection of disease dangerous to life. From the record, it could not be reflected that applicants were medically examined by the Investigating Agency during investigation to find out whether they were suffering from any infectious disease. In absence thereof, it cannot be presumed that applicants were either carrier of infectious disease or would have caused spread of any infectious disease dangerous to life. Therefore, in absence of medical examination of applicants, it cannot be said that they have committed offences under Sections 269 and 270 IPC and, therefore, charge sheet filed against them for these offences and cognizance taken by the court concerned for offences under Sections 269 and 270 IPC is bad.

18. Further, however, apart from the offences under Sections 269 and 270 IPC, charge sheet has also been submitted against applicants under Sections 188 IPC and 54 Disasters Management Act but from perusal of Section 195(1)(a)(i) Cr.P.C. and Section 60 Disasters Management Act, it reflects, no court shall take cognizance for above offences on police report submitted under Section 173(2) Cr.P.C. and court can take cognizance for above offences only on written complaint given by public servant.

19. In case at hand, admittedly, no complaint was filed and on the basis of FIR after investigation charge sheet was submitted and thereafter court concerned took the cognizance on the police report submitted under Section 173(2) Cr.P.C., therefore, impugned

cognizance order dated 13.12.2021 with regard to offence under Section 188 IPC and Section 54 of the Act is bad.

20. Further, alongwith other offences charge sheet has also been filed against the applicants for offence under Section 3 Epidemic Diseases Act, 1897 and court concerned also took cognizance vide impugned order dated 13.12.2021.

Section 3 Epidemic Diseases Act, 1897 reads as follows:-

(1) Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code (45 of 1860).

(2) Whoever,-

(i) commits or abets the commission of an act of violence against a healthcare service personnel; or

(ii) abets or causes damage or loss to any property, shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine, which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(3) Whoever, while committing an act of violence against a healthcare service personnel, causes grievous hurt as defined in section 320 of the Indian Penal Code to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees."

21. From perusal of Section 3 (1) Epidemic Diseases Act, it is apparent, for commission of offence defined under this clause, it is necessary that a person must commit an offence punishable under Section 188 IPC.

Section 188 IPC reads as follows:-

188. Disobedience to order duly promulgated by public servant.—

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a

term which may extend to one month or with fine which may extend to two hundred rupees, or with both;

and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.— It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

22. From perusal of Section 188 IPC, it reflects, if a person disobeying the order promulgated by a public servant and such disobedience causes any obstruction, annoyance or injury or risk of obstruction, annoyance or injury to any person lawfully employed then he will commit offence under Section 3(1) Epidemic Diseases Act.

23. In case at hand, there is no evidence that applicants caused any obstruction, annoyance or injury to any public servant, therefore, offence under Section 3(1) Epidemic Diseases Act is also not made out against them.

24. Further, from perusal of Section 3(2)(3) Epidemic Diseases Act, it is apparent that for offences under Section 3(2)(3) Epidemic Diseases Act, it is necessary that a person must either commit or abet the commission of an act of violence against a healthcare service personnel or abetes or caused damage or loss to any property.

25. In case at hand, admittedly, there is neither any allegation nor evidence that applicants either committed or abetted the commission of act of violence against any healthcare service personnel or they abeted or caused damage or loss to any property, therefore, offences under Section 3(2)(3) Epidemic Diseases Act is also not made out against them.

26. Therefore, from the discussion made above, in view of this Court, charge sheet filed against the applicants under Sections 188, 269 and 270 IPC, Section 3 Epidemic Diseases Act, 1897 and Section 54 Disasters Management Act, 2005 is bad and cognizance

taken by the court concerned vide impugned order dated 13.12.2021 is illegal.

27. Accordingly, impugned charge sheet filed against applicants as well as cognizance order dated 13.12.2021 are hereby quashed.

28. The instant application stands **allowed**.

Order Date :- 24.7.2025

Zafar/KK Patel