



2025:AHC:170672

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 13858 of 2025

Sajjan Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Vijay Pratap Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicants and learned AGA for the State.
2. The present 528 B.N.S.S. application has been filed to quash the charge-sheet dated 21.05.2023, cognizance/summoning order dated 04.08.2023 as well as entire proceeding of Criminal Case No.1482 of 2023 (State vs. Sajjan Singh and others) arising out of Case Crime No.23 of 2023, under sections 147, 354, 504, 506 I.P.C. Police Station Khurja Dehat, District Bulandshahr, pending in the court of Additional Chief Judicial Magistrate, Bulandshahr.
3. It is alleged in the FIR that the applicant and informant belong to same political party and instant FIR lodged with malice intention only to harass the applicant. It is alleged in the FIR that on 27.12.2022 at around 11.00 a.m. the applicant and other co-accused persons called her to go to the meeting and when she reached Wajidpur, she met all the accused persons and she sat in the car with them and on reaching outside the village, they tried to physically molested her. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. On account of some dispute she was implicated in the present case.
4. Learned counsel for the applicant has placed reliance upon paragraph 12 of the Apex Court judgment in **Naresh Aneja @ Naresh Kumar Aneja vs. State of Uttar Pradesh & another in Criminal Appeal No.....of 2025 (arising out of Special Leave Peittion (Crl.) No.1093 of 2021)**.
5. Per contra, learned A.G.A. vehemently opposed the submission raised by

applicant's counsel and submitted that the applicant and informant belong to same political party member and there is no occasion to lodge FIR against the applicant. Statement of the victim recorded under sections 161 & 164 Cr.P.C. supporting the prosecution story. *Prima-facie*, offence is made out against the applicant. Statement of the victim recorded under Section 164 Cr.P.C. is being reproduced below:-

"अवलोकन बयान धारा 164 सीआरपीसी: मेरा नाम कविता शर्मा है मैं इण्टर पास हूँ मेरे पास 27.12.2022 को सज्जन सिंह फौजीद जो भारतीय किसान यूनियन एकता फौजीद के अध्यक्ष है की काल आयी की मैं और मेरे पति कैलाश हॉस्पिटल खुर्जा के सामने ग्राम वाजिदपुर के पास आये मेरे पति बोले की मुझे खुर्जा के कुछ काम है राम सज्ज सिंह के साथ चली जाओ थोड़ी देर बाद सज्जन सिंह बोलेरो में आये। मैं बीच वाली सीट पर बैठी। उसमे पहले से पाँच लोग थे। सज्जन सिंह, सुशील फौजी, भूरा पण्डित, मेहरबान व नाजिम थे। मैं सज्जन सिंह व सुशील फौजी को जानती थी इन लोगों ने गाड़ी में बैठने के बाद सज्जन, सुशील, व भूरा ने छेड़छाड़ करना शुरू कर दिया। मेरी जैकेट व कुर्ता उतारने की कोशिश की मैंने कपड़े कस कर पकड़ लिये तो लात घुसे बजाये मेरे पेट में गाड़ी में ही। मेरे शोर भवाने पर उ 4 किलोमीटर आगे हाईवे पर उतार दिया व जान से मारने की धमकी दी मैंने पति को फोन किया हमने 28.12.2022 को थाने पर तहरीर दी। सुनकर तस्दीक किया। यही मेरा बयान है। मुझे कुछ और नहीं कहना है उपरोक्त बयान पीडिता के कहने पर मेरे द्वारा सशब्द अंगित किया गया, जिसे पढ़कर पीडिता ने तस्दीक किया।"

6. The Apex Court in the case of **Mohd. Allauddin Khan Vs. State of Bihar and others** reported in (2019) 6 SCC 107 has held in para No.14 as follows:-

"14. In our view, the High Court had no jurisdiction to appreciate the evidence of the proceedings under Section 482 of the Code Of Criminal Procedure, 1973 (for short "Cr.P.C.") because whether there are contradictions or/and inconsistencies in the statements of the witnesses is essentially an issue relating to appreciation of evidence and the same can be gone into by the Judicial Magistrate during trial when the entire evidence is adduced by the parties. That stage is yet to come in this case."

7. The Apex Court in **Priti Saraf and another Vs. State of NCT of Delhi and Another** reported in AIR 2021 SC 1531 has held that:

"To exercise powers under Section 482, complaint in its entirety have to be examined on basis of allegation made in complaint/FIR/Charge sheet. High Court at that stage not under an obligation to go into matter or examine its correctness. Whatever appears on face of complaint/FIR/charge sheet to be taken into consideration without any critical examination of same. Offence ought to appear ex facie on complaint/FIR/charge sheet and other documentary evidence, on record. It is thus settled that exercise of inherent power of High Court is an extraordinary power which has to be exercised with great care and circumspection before embarking to scrutinize complaint/FIR/charge sheet in deciding whether case is rarest of rare case, to scuttle

prosecution at its inception. Whether the allegations in the complaint are otherwise correct or not, has to be decided on the basis of the evidence to be led during the course of trial. Simply because there is a remedy provided for breach of contract or arbitral proceedings initiated at the instance of the appellant, that does not by itself clothe the court to come to a conclusion that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court for exercising inherent powers of the High Court under Section 482 Cr.P.C. for quashing such proceedings."

8. The Apex Court in *Manik B. Vs. Kadapala Sreyes Reddy and another, 2023 Live Law (SC) 642* has held thus:-

"1. Leave granted.

2. Though, we have heard learned counsel for the parties at length, we have not gone into the merits of the arguments, inasmuch as any observation made by this Court with regard to the impugned order will adversely affect the rights of the parties at the stage of the trial.

3. The factors which the Court is required to take into consideration, while quashing the proceedings under Section 482 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C.") and while considering an application for discharge are totally different.

4. The least we can say is that the High Court in the impugned order, while exercising jurisdiction under Section 482 Cr.P.C., has almost conducted a mini trial and quashed the proceedings.

5. Learned Single Judge of the High Court has elaborately discussed the statements of the witnesses recorded under Section 161 of the Cr.P.C.

6. Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial.

7. Such an exercise, in our considered view, is not permissible while exercising the jurisdiction under Section 482 Cr.P.C.

8. The scope of interference, while quashing the proceedings under Section 482 Cr.P.C. and that too for a serious offence like Section 302 of Indian Penal Code is very limited. The Court would exercise its power to quash the proceedings only if it finds that taking the case at its face value, no case is made out at all.

9. At the stage of deciding an application under Section 482 Cr.P.C., it is not permissible for the High Court to go into the correctness or otherwise of the material placed by the prosecution in the chargesheet. The High Court by the impugned order has done exactly the same.

10. Therefore, without commenting upon the merits or demerits of the evidence, we quash and set aside the impugned order dated 02.01.2023 passed by the High Court.

11. The matter is remitted back to the learned trial Judge for trial of the Session Case No. 1379 of 2022 on its own merits and in accordance with law.

12. In the event respondent No.1, so desires, he would be at liberty to file an application for discharge, which will be considered on its own merits and in accordance with law.

13. The appeal is allowed in the above terms.

14. Pending applications, if any, stand disposed of."

9. From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicant. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 528 BNSS.

10. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, Manik B. Vs. Kadapala Sreyes Reddy & Anr. 2023 LiveLaw (SC) 642, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283,** no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 528 BNSS.

11. Considered the submissions of both the parties. Statements of the victim recorded under Section 161 & 164 Cr.P.C., prima facie, disclose offence against the applicant and supported the prosecution story. The victim in her statement recorded under Section 164 Cr.P.C. has clearly stated that applicant used force and tried to disrobe her but she caught her cloths tightly then they beaten her by legs and fists. No interference is warranted.

12. The present application under Section 528 BNSS of the applicant- **Sajjan Singh**, lacks merit and is, accordingly, **dismissed**.

September 23, 2025
SKD

(Deepak Verma,J.)