



2025:AHC:174777

**HIGH COURT OF JUDICATURE AT ALLAHABAD
APPLICATION U/S 528 BNSS No. - 30593 of 2024**

Sanjay Kumar Yadav And 5 Others

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Vishal Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE VIKAS BUDHWAR, J.

1. Heard Shri Vishal Kumar Singh, counsel for the applicants and Shri J.P. Gupta, learned AGA for the State.

2. This application under Section 528 BNSS has been filed by the applicants to quash the impugned Chargesheet dated 17.04.2022 in Criminal case no.5391 of 2022 *vide* F.I.R. no. 62/2022 Under Section- 147, 323, 452, 504 IPC, Police Station- Gadwar, District - Ballia Magistrate IInd, Ballia as well as the impugned cognizance order dated 19.10.2022.

3. The case of the applicants is that a first information report stood lodged by the opposite party no. 2 against the applicants being FIR No. 0062 of 2022 dated 10.02.2022 under Sections 452, 504, 323, 147 IPC with an allegation that on 01.02.2022 at 9.00 in the morning with respect to entrustment of the work pursuant to the direction of the Pradhan, a Government pipeline was being sought to be laid down in front of the house of the first informant for flowing of the water, however, the applicants herein started protesting against the same and hurled abuses and with the aid and fist and legs started assaulting pursuant whereto the first informant and the labours started running and the cousin brother of the first informant, Umesh Yadav, Ritesh Yadav sustained internal injuries and Umesh sustained injuries in his hand and when they approached the police station for lodging of the first information report then the same was not done thereafter they were medical examined. Post lodging of the first information report, the statement of the opposite party no. 2, first informant was recorded under Section 161 Cr.P.C. followed by Umesh Yadav, Ritesh Yadav, Sanjay Kumar Tiwari, Ramesh Chandra, Bhim Ji Pal and after investigation, a charge-sheet came to be submitted against the applicants dated 17.04.2022 under Sections 147, 323,

452, 504 IPC and the applicants came to be summoned on 19.10.2022.

4. Questioning the charge-sheet and the impugned proceedings, the applicants have been filed the present application.

5. Learned counsel for the applicants has submitted that the applicants have been falsely implicated and they have not committed any offence, particularly, with respect to the incident dated 01.02.2022, a first information report came to be lodged by the applicant no. 1 against the opposite party no. 2 and their faction being FIR No. 0056 of 2022 on 03.02.2022 under Sections 308, 326, 149, 148, 147 IPC with an allegation that on 01.02.2022 at 9.00 in the morning, the opposite party no. 2 and their faction attacked and assaulted the applicants. Pursuant whereunto injuries were sustained by the applicants and with respect to the applicant no. 1, the injuries were to the extent that they were partial loss of distal phalynx of hand index fingers. Contention of the learned counsel for the applicants is that the impugned complaint is nothing but a counter-blast just in order to dictate terms and to create a situation whereby the applicants succumbed to the pressure exhorted by the opposite party no. 2 faction. Attention has also been drawn towards para-25 of the application so as to show that there happens to be a chart recapitulated showing the accused in the first information report lodged by the opposite party no. 2 and the first information report lodged by the applicants. Learned counsel for the applicants has further invited attention towards Annexure-5 at page 81 of the paperbook so as to contend that there happens to be an information sought under Right to Information Act pursuant whereunto no such work was conducted on 01.02.2022. Submission is that the applicants have been falsely implicated and they are innocent and rather they are the faction who have sustained injuries in that regard.

6. Shri J.P. Singh, learned AGA that once there are two cross-FIRs one lodged by the applicants and the other lodged by the opposite party no. 2 regarding the same incident then it cannot be ruled out that the incident took place and further it is a subject matter of trial in order to find out that who is the aggressor, according to him, it is for the applicants to prefer a discharge application seeking discharge.

7. I have heard learned counsel for the parties and gone through the records carefully.

8. Apparently, the impugned FIR lodged by the opposite party no. 2 against the applicants is bearing no. 0062 dated 10.02.2022 under Section 452, 504, 323, 147 relating to the commission of the offences on 01.09.2022 and with respect to the another FIR which has been lodged by the applicants against the opposite party no. 2 and the applicants herein had lodged FIR against the opposite party no. 2 being FIR No. 0056 dated 03.02.2022 under Section 308, 326, 322, 149, 147 IPC against the opposite party no. 2. Since there are cross-FIRs relating to the incident dated 01.02.2022 and as per the case of the applicants both the factions have sustained injuries, thus the occurrence of the incident cannot be ruled out. However, whether who is the aggressor is a question which is a subject matter of enquiry and further the contention of the learned counsel for the applicants that no such work stood executed on 01.02.2022 by the Pradhan and thus the allegations contained in the first information report impugned in the present application are false and incorrect, this Court in absence of convincing material is not liable to go into.

9. Looking into the overall facts of the case, the application is **disposed of** directing the applicants to submit a discharge application by 31.10.2025 to take all legal and factual grounds which are advisable and permissible under law and on the said motion, the court below shall decide the discharge application with most expedition strictly in accordance with law.

10. Till the discharge application is decided, no coercive action is being taken against the applicants in pursuance of the impugned Chargesheet dated 17.04.2022 in Criminal case no.5391 of 2022 vide F.I.R. no. 62/2022 Under Section- 147, 323, 452, 504 IPC, Police Station- Gadwar, District - Ballia Magistrate IIInd, Ballia as well as the impugned cognizance order dated 19.10.2022.

11. In the event of default of any of the conditions by the applicants as referred to above, the interim protection shall stand vacated without reference to the Bench.

September 26, 2025
A. Prajapati

(Vikas Budhwar,J.)