



2026:AHC:90277

Judgment Reserved On: 17.04.2026
Judgment Delivered On: 23.04.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 29633 of 2025

Sonu Alias Shahin Ali And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	: Manish Kumar Singh, Pavan Kishore
Counsel for Opposite Party(s)	: G.A., Nigamendra Shukla

Court No. - 83

HON'BLE SANJIV KUMAR, J.

1. Heard Mr. Pavan Kishore, learned counsel for the applicants, Mr. Nigamendra Shukla, learned counsel for opposite party no.2, learned AGA on behalf of the State and perused the record.

2. This application, u/s 528 Bhartiya Nagrik Suraksha Sanhita, 2023, (in short BNSS), has been filed by the applicants with the prayer to quash charge-sheet dated 03.05.2024, cognizance order dated 12.08.2024 as well as entire proceedings of Case No. 1609 of 2024 (State Vs. Sonu @ Shahin Ali and another), arising out of Case Crime No. 200 of 2024, under Sections 506 IPC, Police Station Kankarkhera, District Meerut, pending in the Court of learned Additional Chief Judicial Magistrate, Court No. 3, Meerut.

3. Brief facts giving rise to the present application are that opposite party no.2, Sahil, lodged an FIR against the applicants, stating that the first informant has a clothes shop in Nagla Tashi, Police Station Kankarkhera, in the name of Fashion Villa. On 21.03.2024, when he opened his shop's shutter, he found a letter containing threats and abuses to him. He further alleged that there is a dispute with regard to two plots between him and his Uncle (Tau), Marhoom Asgar's, sons Shahin Ali and his elder brother Nazar. Both the aforesaid plots were allegedly illegally sold by Sonu @ Shahin Ali and the first informant has lodged a case against him, which is pending before the court. It is further alleged that he has suspicion that

Sonu @ Shahin Ali and his brother Nazar have sent this threatening letter and they have earlier also threatened him as well.

4. Upon this information, FIR under Section 506 IPC was lodged against the applicants and after collecting evidence, charge-sheet under the aforesaid Section was filed against the applicants.

5. Learned counsel for the applicants submits that the applicants are neither named in the FIR nor is there any evidence against them to suggest that they had dropped the alleged threatening letter in first informant's shop. There is no evidence against them and no offence under Section 506 IPC is made out, therefore, the proceedings are liable to be quashed.

6. Per contra, learned counsel for opposite party no.2 has submitted that the FIR was lodged on correct facts. The Investigating Officer, after collecting the evidence, has filed charge-sheet before the competent court. It is further submitted that it is to be seen during the course of trial whether the offence has been committed or not, therefore, this application has no force and it is liable to be dismissed.

7. Learned AGA has defended the impugned charge-sheet, cognizance order as well as entire criminal proceedings.

8. In view of submission of learned counsel for the parties and upon perusal of material on record, it is not in dispute that the FIR was lodged under Section 506 IPC, upon suspicion against the applicants. It is the case of the prosecution that a threatening letter was dropped by the applicants in first informant's shop. The FIR was lodged on suspicion and the Investigating Officer has recorded statement of witnesses, however, none of them have stated that they saw the applicants dropping the said letter in first informant's shop. It is also relevant to note that admittedly, the above letter giving threat, is a typed document, which does not bear name(s), contact number(s) or signature(s) of any person, including the applicants. In view of the above, the charge-sheet has been filed on the basis of no evidence.

9. In the landmark case **State of Haryana v. Ch. Bhajan Lal (1992 Supp. (1) SCC 335)**, a two-judge bench of the Supreme Court of India

considered in detail, the provisions of section 482 (now Section 528 BNSS) and the power of the High Court to quash criminal proceedings or FIR. The Supreme Court summarized the legal position by laying the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

"1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the

institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

10. The Hon'ble Supreme Court in **Fakhruddin Ahmad V State of Uttaranchal, (2008) 17 SCC 157** also held as under:-

"Nevertheless, it is well settled that before a Magistrate can be said to have taken cognizance of an offence, it is imperative that he must have taken notice of the accusations and applied his mind to the allegations made in the complaint or in the police report or the information received from a source other than a police report, as the case may be, and the material filed therewith. It needs little emphasis that it is only when the Magistrate applies his mind and is satisfied that the allegations, if proved, would constitute an offence and decides to initiate proceedings against the alleged offender, that it can be positively stated that he has taken cognizance of the offence. Cognizance is in regard to the offence and not the offender."

11. In view of the above legal position and the material on record the allegations made in the FIR and the evidence collected by the I.O. are such nature, which makes it so inherently improbable on the basis of which, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Therefore, on the basis of above discussion and the case law cited above, it is clear that without collecting any sufficient evidence, charge-sheet has been filed against the applicants and consequently the entire criminal proceedings amounts to an abuse of process of law.

12. Beside this, it is settled law that the cognizance and summoning of an

accused, in a criminal case, is a serious matter and the order must reflect that Magistrate had applied his mind to the facts as well as law applicable thereto, and also the allegations and evidence in support thereof. Looking into the above the impugned cognizance and summoning order passed by the concerned court shows that it was passed in mechanical manner without application of judicial mind.

13. In view of the above discussion, the application has force in it and the entire criminal proceedings of the case amounts to an abuse of process of law.

14. Therefore, this application is **allowed** and charge-sheet dated 03.05.2024, cognizance order dated 12.08.2024 as well as entire proceedings of Case No. 1609 of 2024 (State Vs. Sonu @ Shahin Ali and another), arising out of Case Crime No. 200 of 2024, under Sections 506 IPC, Police Station Kankarkhera, District Meerut, pending in the Court of learned Additional Chief Judicial Magistrate, Court No. 3, Meerut, are hereby **quashed**.

(Sanjiv Kumar,J.)

April 23, 2026
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