



2026:AHC-LKO:36603-DB

[Reserved on 08.05.2026]
[Delivered on 21.05.2026]



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**
CRIMINAL MISC. WRIT PETITION No. - 4163 of 2026
[Neutral Citation No. - 2026:AHC-LKO:36603-DB]

Mo. Arman

.....Petitioner(s)

Versus

State of U.P. Thru. Addl. Chief Secy. Deptt. of Home Lko. and others
.....Respondent(s)

Counsel for Petitioner(s)	: Kirti Raj Singh, Yogesh Gupta
Counsel for Respondent(s)	: G.A.,

Court No. - 11

HON'BLE ABDUL MOIN, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

{Per Pramod Kumar Srivastava, J.}

1. Heard Sri Kirti Raj Singh, learned counsel for the petitioner and learned Additional Government Advocate for the State-respondents no. 1 to 5.
2. In view of the order proposed to be passed, notice to respondent no. 6 is hereby dispensed with.
3. By means of the instant writ petition, the petitioner has approached this court seeking a writ of mandamus commanding the respondent no. 2 to initiate an inquiry with regard to the occurrence dated 16.10.2024 in relation to First Information

dated 16.10.2024 bearing FIR No. 0203 of 2024, under Sections 323, 376D, 452, 504, 506 of IPC, Police Station Sohramau, District Unnao.

4. Contention of learned counsel for the petitioner is that the petitioner is a media official by profession and he has falsely been implicated in a series of First Information Reports (FIRs) as a result of a personal vendetta and an underlying property dispute. It is submitted that the petitioner was previously exonerated in FIR No. 0203 of 2024. However, on the same day, another FIR No. 202 of 2024 was lodged at Police Station Sohramau, District Unnao, under Sections 303(2), 324(4), 329(3), 352, 351(2), 353(2), 132 of BNS, 2023 and FIR No. 746 of 2024, under Section Sections 353(2), 132 and 67 of the BNS, 2023 at Police Station Kotwali, District Unnao. The petitioner further submits that his professional duty, as a journalist, is being obstructed by the police personnel acting in collusion with the complainant.
5. Learned counsel for the petitioner vehemently argues that the lodging of the multiple FIRs on a single day is a clear indicator of malicious intent. He invokes the principle of law propounded by the Apex Court that an FIR under Section 154 of the Cr.P.C. (now Section 173 of the BNSS) should only be registered if a cognizable offense is, prima facie, made out. It is urged that the petitioner's personal liberty remains curtailed due to illegal incarceration based on these unsubstantiated allegations, aimed solely at maligning his reputation.
6. The learned Additional Government Advocate appearing for the State has vehemently opposed the contentions aforesaid and has submitted that in the FIR No. 203 of 2024, involving serious allegations of sexual violence under Sections 323, 504, 452, 376, and 506 of the IPC, a chargesheet has already been filed before the competent court. The learned AGA further contends that once a chargesheet is filed, the appropriate remedy for the

petitioner lies in seeking discharge or contesting the trial, rather than invoking the extraordinary jurisdiction of the High Court.

7. This Court has carefully considered the submissions of both the parties and perused the record. The petitioner's primary grievance is that the criminal machinery has been set in motion with ulterior motives. However, it is a settled proposition of law that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot act as a trial court to determine the veracity of evidence or the existence of a "personal vendetta" when the investigation has already culminated in a chargesheet.
8. The apex court in the case of **Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC 1 : 1998 SCC OnLine SC 663** has observed as under:

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

9. Following the dictum of **Whirlpool Corpn.(supra)** in the case of **Radha Krishan Industries v. State of H.P., (2021) 6 SCC 771** the Supreme court has observed as under:

“27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where: (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”

10. The Supreme court in the case of **Sujal Vishwas Attavar v. State of Maharashtra, 2026 SCC OnLine SC 798** has observed while reiterating that no remedy under Article 226 can be availed of if there exists inaction and/or non-action by the police in registering the FIR relating to a cognizable offence without utilizing the alternate remedy provided under the statute as under:

“10....Entertaining a writ petition, in the said circumstances, would in effect, result in the High Court, acting as a forum of first instance thereby bypassing the statutory scheme in its entirety. This is impermissible, save and except in special circumstances as mentioned in *Radha Krishan Industries (supra)*, which are conspicuously absent in the present case.

11. The High Court is not bound to entertain a writ petition merely because a case of alleged inaction or negligence is made out against a statutory authority. Ordinarily, where a statute provides a complete and efficacious remedy, the same must be exhausted before invoking constitutional jurisdiction [See: *Sakiri Vasu (supra)* and *Sudhir Bhaskarrao Tambe (supra)*]. In the present facts, the complainant Company, has not exhausted the sequential statutory remedies available under BNSS. There is, therefore, no foundation to invoke the extraordinary jurisdiction of the High Court for the reason that efficacious and efficient alternative remedies exists. Hence, at this stage, we find the instant writ petition to be premature, and, therefore, not fit to be entertained.”

11. The case in hand is not a case of the petitioner where the alternative remedy is unavailable or inefficacious and entertaining a writ petition, in the said circumstances, would in effect, result in the High Court, acting as a forum of first instance thereby bypassing the statutory scheme in its entirety. This is impermissible except in special circumstances and the present case does not fall in any of the special circumstances as provided in the case of **Whirlpool Corpn (supra)** and **Radha Krishan Industries (supra)**.
12. In the present case, while the petitioner claims that the FIRs are false, there is no judicial observation to confirm that the investigation was tainted or that the FIRs were lodged with the sole intent of harassment. The allegations, particularly those concerning sexual violence, require a detailed examination of facts and evidence, which can only be effectively conducted by the trial court.
13. The law provides sufficient safeguards for an accused at various stages before commencement of trial as well as during trial. If the petitioner maintains that the prosecution is malicious or

without substance, he is at liberty to raise these contentions before the competent court at the proper stage.

14. In light of the aforesaid facts and that the investigation has reached the stage of a chargesheet and formal charges are yet to be framed as well as law laid down by Hon'ble Apex Court, this Court finds no merit in interfering with the proceedings at this juncture.

15. The petition is, accordingly, **dismissed**.

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)

May 21, 2026

kkv/-