2026:AHC:209107-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 9448 of 2025

Shashi Patel Alias Chhotu And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Indrapal Vishwakarma, Ramesh Kumar Ojha
Counsel for Respondent(s)	:	G.A., Shri Nath Mishra

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Case called out in revised list.

2. Even though the names of Mr. Indrapal Vishwakarma and Mr. Ramesh Kumar Ojha are duly published in the cause list as counsel for petitioners however neither they nor any one on their behalf is present to press this writ petition even in revised call .

3. Learned A.G.A. representing State/respondents 1 and 2 is present.

4. Perused the record.

5. Petitioners-Shashi Patel Alias Chhotu And 2 Others have approached this Court by means of present Criminal Misc. Writ Petition challenging the impugned F.I.R. dated 24.03.2025 lodged by first informant-respondent-3, Kajal Kanujiya and registered as Case Crime No. 28 of 2025 under Sections 376-D, 506 IPC and Section 3 (2) (va) of SC/ST Act, Police Station-Sureri, District-Jaunpur.

6. Present writ petition came up for admission on 12.05.2025 and this court passed the following order:

"1. Heard learned counsel for the petitioners and learned AGA for State respondents.

2. The instant writ petition has been preferred for quashing the impugned FIR dated 24.03.2025 being Case Crime No.28 of 2025 under Section 376-D, 506 IPC and Section 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015), P.S. Sureri, Distt. Jaunpur and for a direction to respondents not to arrest the petitioners pursuant to impugned FIR.

3. It is contended that the impugned FIR has also been assailed by the co-accused in Criminal Misc. Writ Petition No.6879 of 2025 (Arun Patel & Anr. v. State of U.P. & Ors.) in which interim protection was accorded on 16.04.2025. As such it is submitted that being on similar footing the petitioners in this writ petition are also entitled for similar indulgence. Learned counsel for the petitioners submits that in the said writ petition, Shri Kuldeep Kumar Dubey had appeared on behalf of the informant and as such some time may be accorded to serve notice on Shri Kuldeep Kumar Dubey on behalf of the informant in the instant writ petition also.

4. Learned AGA, on the basis of instructions, states that during investigation five accused persons including second and third petitioner have been exonerated. However, investigation qua first petitioner under Section 376, 506 IPC and Section 3 (2) (v) SC/ST Act is going on.

5. As the matter relates to SC/ST Act, before proceeding further in the matter, let notices be served upon Shri Kuldeep Kumar Dubey on behalf of the informant by the next date. Meanwhile, learned AGA may also ensure effective service upon the informant.

6. Put up this matter as fresh on 16.05.2025."

7. The interim order granted by this Court on 12.05.2025 was extended by this Court vide order dated 16.05.2025, which reads as under:-

"Sri Shri Nath Mishra, learned counsel appears for respondent no.3.

Connect this writ petition along with Criminal Misc. Writ Petition No.6879 of 2025.

For the reasons given in the interim order passed in the aforesaid writ petition, this matter also requires consideration.

He prays for and is allowed four weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed thereafter within two weeks.
List after aforesaid period.

Till the next date of listing or till submission of police report under Section 173(2) Cr.P.C. or till taking cognizance by the competent court whichever is earlier the petitioners shall not be arrested in Case Crime No.28 of 2025, under Sections 376-D, 506 I.P.C. and Section 3(2) (va) of Schedule Casts and Schedule Tribes (Prevention of Atrocities Act, 1989 (Amendment 2015), P.S. Sureri, District Jaunpur provided the petitioners cooperate with the investigation. In case they do not cooperate with the investigation, it shall be open for the respondents to approach competent authority. "

8. Upon perusal of impugned F.I.R., we find that the impugned F.I.R. giving rise to present writ petition was lodged on 24.03.2025. On date, a period of more than one year and 6 months has expired, therefore, in all probability, Investigating Officer upon completion of statutory investigation in terms of Chapter XII Cr.P.C. must have submitted requisite police report/charge sheet in terms of Section 173 (2) Cr.P.C against petitioners. It is is on account of this reason that learned counsel for petitioners have not responded even in revised call.

9. In view of above, we are of the considered opinion that by efflux of time, the present writ petition has been rendered infructuous.

10. It is accordingly dismissed as having rendered infructuous.

11. Interim order, if any, granted earlier shall stand vacated.

October 6, 2026
YK

(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
YASHWANT KUMAR
High Court of Judicature at Allahabad