2026:AHC:210400-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 9570 of 2025

Anil Kumar Gupta And Another

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Anit Kumar Pal, Rajnish Kumar Srivastava
Counsel for Respondent(s)	:	Ajay Kumar Shukla, G.A.

Court No. - 47

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

1. Case called out in revised list.

2. Heard Mr. Siddharth Srivastava, Advocate holding brief for Shri Anit Kumar Pal, learned counsel for petitioners, Shri Akhilesh Kumar Mishra, Advocate holding brief of Shri Ajay Kumar Shukla, learned counsel for first informant respondent 3 and learned AGA representing state respondent 1, 2.

3. Perused the record.

4. Petitioners - Anil Kumar Gupta and another have approached this Court by means of the present Criminal Misc. Writ Petition challenging the FIR dated 3.3.2025 lodged by first informant respondent 3, Jitendra Kumar and registered as Case Crime Number 0189 of 2025, under Sections 380, 420, 467, 468, 471 IPC, Police Station Quarsi, District Aligarh.

5. Present writ petition came up for admission on 13.05.2025 and this Court passed the following order:

"1. Heard learned counsel for the petitioners and learned A.G.A. for the State respondents.
2. The relief sought in this petition is for quashing of the F.I.R. dated 3.3.2025 registered as Case Crime No.0189 of 2025, under Sections 380, 420, 467, 468, 471 IPC, Police Station Quarsi, District Aligarh. Further prayer has been made not to arrest the petitioners in the aforesaid case.
3. Learned counsel for the petitioners has relied upon SIT report which is against the informant. The SIT report shows that the informant has been vindicated. In this backdrop, it is states that at present petitioner no. 1 is Secretary and petitioner no. 2 is Joint Secretary of the society.
4. Learned AGA prays for and is granted ten days time to seek instructions in the matter with regard to SIT report.

5. Put up this case as fresh on 27.5.2025.
6. Till the next date of listing, no coercive action shall be taken against the petitioners in the above mentioned case."

6. The aforesaid interim order was extended vide orders dated 27.05.2025 and 02.07.2025. Learned counsel for petitioners fairly submits that during pendency of present writ petition, Investigating Officer, upon completion of statutory investigation of aforementioned Case Crime Number in terms of Chapter XII Cr.P.C., has submitted the charge sheet / police report dated 21.07.2025, upon which cognizance has also been taken by jurisdictional Magistrate vide cognizance-taking order dated 04.09.2025. Being aggrieved by the aforesaid order, petitioners approached this Court by means of an application under Section 528 BNSS, which was registered as Criminal Miscellaneous Application under Section 528 BNSS No. 21935 of 2026, *(Anil Kumar Gupta and another versus State of U.P.*). The aforesaid Criminal Misc. Application was disposed of finally vide order dated 03.07.2026. The said order is extracted here-in-below:

" 1. Heard learned counsel for applicants and learned counsel appearing on behalf of opposite party no.3 as well as learned AGA for the State.

2. The present application has been preferred for seeking quashing of chargesheet dated 21.07.2025 as well as cognizance/summoning order dated 04.09.2025 alongwith entire proceedings of Criminal Case No.32493 of 2025, arising out of Case Crime No.189 of 2025, under Section 380, 420, 467, 468, 471 IPC, P.S. Quarsi, District Aligarh, pending in the court of learned Chief Judicial Magistrate, Aligarh.

3. Learned counsel for applicants raised several arguments in support of prayer sought through the instant application which have been vehemently opposed by learned counsel appearing on behalf of opposite party no.3 as well as learned AGA on the ground that FIR of the present case, has already been challenged by applicants by way of preferring Criminal Misc. Writ Petition No.9570 of 2025 which is still pending to be adjudicated before Division Bench of this Court.

4. Learned counsel for applicants submitted that in the said criminal writ, time was granted to learned AGA to prefer counter affidavit and also interim protection has been extended in favour of applicants in shape of no coercive action shall be taken action them till the next date of listing. He further argued that in spite of that interim order, non bailable warrants have been issued against applicants which is illegal.

5. After having the rival contentions raised by learned counsel for parties as well as by perusal of the entire material available on record, this Court notes that veracity of the present criminal proceedings as initiated through FIR, has already been put under challenge by the applicants through Criminal Misc. Writ Petition No.9570 of 2025 which is still pending to be adjudicated before Division Bench of this Court wherein

response was called from learned AGA and also interim protection has also been extended in favour of applicants, meaning thereby, the entire arguments whatsoever raised by learned counsel for applicants, are dependent upon the outcome of said criminal writ, therefore, prayer sought through the instant application is hereby refused.

6. This Court further notes that once interim protection is already operating in favour of applicants granted by Division Bench of this Court in the said criminal writ, issuance of non-bailable warrants against applicants is illegal and as such, the same is liable to be quashed.

7. In view thereof, order dated 13.01.2026 through which non-bailable warrants issued against applicants in Criminal Case No.32493 of 2025, arising out of Case Crime No.189 of 2025, under Section 380, 420, 467, 468, 471 IPC, P.S. Quarsi, District Aligarh, pending in the court of learned Chief Judicial Magistrate, Aligarh, is hereby set aside.

7. In sofar as criminal proceedings are concerned, there is no impediment available before learned court concerned to proceed with the trial but the coercive action shall be dependent upon the outcome of said criminal writ. Applicants are hereby directed to put their appearance before learned trial court concerned and cooperate in expedite disposal of the trial.

8. Accordingly, the instant application is disposed of."

7. On the above premise, the learned counsel for petitioners further submits that present writ petition be dismissed as withdrawn with liberty to petitioners to file an application under Section 528 BNSS. Prayer made by learned counsel for petitioners is bona fide. In view of the facts noted above, learned AGA representing state respondent and Mr. Akhilesh Kumar Shukla, Advocate, holding brief of Mr. Ajay Kumar Shukla, learned counsel representing first informant respondent 3 do not oppose the prayer made by the learned counsel for petitioner.

8. In view of above, this writ petition shall stand dismissed as withdrawn, with liberty as aforesaid.

9. Interim order, if any, shall stand vacated.

October 7, 2026
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(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
MAHBOOB SAFI
High Court of Judicature at Allahabad