2026:AHC:210041-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 9819 of 2025

Shahainsha And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	A.Z.Khan, Afzal Husain, Mohammad Asif
Counsel for Respondent(s)	:	G.A., Mohd. Shahibe Alam

Court No. - 47

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

1. Case called out in the revised list.

2. Even though the name of Mr. A. Z. Khan and Mr. Afzal Husain are duly published in the cause list as counsel for petitioners, but neither they nor anyone on behalf of petitioners are present to press the writ petition even in revised call.

3. Learned AGA representing State-respondents 1 and 2 is present.

4. Even though the name of Mohd. Shahibe Alam representing first informant 3 is duly published in the cause list, but neither he nor anyone is present on his behalf to press the writ petition even in the revised call.

5. Perused the record.

6. Petitioners Shahainsha And 3 Others have approached this Court by means of present criminal misc. writ petition challenging the impugned FIR dated 12.03.2025 lodged by first informant respondent 3 - Kalamudeen, and registered as Case Crime No. 78 of 2025, under Sectiion 85, 80(2), 351(3) BNS and Section 3/4 Dowry Prohibition Act, Police Station - Kothibhar, District - Mahrajganj.

7. Present writ petition came up for admission on 20.05.2025 and this Court passed the following order:-

"Heard Shri Mohammad Asif, learned counsel for the petitioners; learned A.G.A. for the State-respondents and perused the material on record.

The writ petition seeks quashing of the F.I.R. dated 12.3.2025 giving rise to Case Crime No.78 of 2025, under Sections 85,80(2),351(3) B.N.S. and 3/4 D.P. Act, Police Station- Kothibhar, District- Maharajganj.

Learned counsel for the petitioners has submitted that petitioners are family members

of matrimonial home of deceased. It has been submitted that the husband as well as entire family members of the husband-petitioner no.1 have been falsely implicated in the present case by the opposite party no. 3 on the general allegations, which is against the well settled principles of law as laid down by the Hon'ble Supreme Court in the 2012 (10) SCC 741 in the matter of Geeta Mehrotra and Another Vs. State of Uttar Pradesh.

The Apex Court in the case of Kahkashan Kausar @ Sonam vs The State Of Bihar and Others, 2022(6) SCC 5991, has held that in such cases relatives of husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime is made out.
So far as the husband-petitioner no. 1, namely, Shahainsha, is concerned following orders is being passed:-

After hearing rival contentions, this Court finds that it is not a fit case for quashing the FIR for petitioner no.1.

This writ petition is, accordingly, dismissed for petitioner no.1,namely, Shahainsha.

However, on the request of learned counsel for the petitioners, it is directed that in case petitioner no.1,namely, Shahainsha appears before the court below within 60 days from today and applies for regular bail/ anticipatory bail, the same shall be considered as per judgement and order of Apex Court in the case of Lal Kamlendra Pratap Singh Vs. State of U.P. reported in 2009 (3) ADJ 322 (SC).
For a period of 60 days, the petitioner no.1,namely, Shahainsha shall not be arrested in the aforesaid case, if not already arrested.

However, in case, the petitioner no.1, namely, Shahainsha does not appears before the court below within the aforesaid period, coercive action shall be taken against him.

It is made clear that the petitioner no.1 will not be granted any further time by this Court for appearing before the trial court as directed above.

So far as the petitioner nos. 2 to 4 are concerned the following order is being passed:-

Opposite parties may file their counter affidavits within four weeks. Rejoinder affidavit may be filed within two weeks thereafter.

List this case after six weeks.

Till the next date of listing or till cognizance is taken by court on police report submitted under Section 193(3) B.N.S.., whichever is earlier, the respondents are restrained from arresting the petitioner nos. 2 to 4 pursuant to the impugned First Information Report, subject to cooperation in ongoing investigation."

8. Upon perusal of order sheet we find that the interim order dated 20.05.2025 was

never extended.

9. Considering the fact that the FIR in the present writ petition was lodged on 12.03.2025 and a period of one year and six months have rolled by since then, therefore, Investigating Officer must have submitted police report. In all probability, cognizance upon aforesaid charge sheet/police report must have been taken by the jurisdictional magistrate.

10. In view of above, we are of the considered view that by efflux of time, present writ petition has been rendered infructuous. It is accordingly dismissed as having rendered infructuous.

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

October 6, 2026
S.K.S.

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

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