2026:AHC:211343-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 11068 of 2025

Harihar Singh

.....Petitioner(s)

Versus

State Of U.P. And 3 Other

.....Respondent(s)

Counsel for Petitioner(s)	:	Yogesh Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE DR. AJAY KUMAR-II, J.

1. Heard Mr. Ankit Singh, Advocate, holding brief of Mr. Yogesh Singh, the learned counsel for petitioner and the learned A.G.A. representing State-respondents.

2. Perused the record.

3. Petitioner- Harihar Singh has approached this Court by means of present Criminal Misc. Writ Petition challenging the impugned F.I.R. dated 05.07.2022 lodged by first informant-respondent-4 and registered as Case Crime No. 0194 of 2022, Under Section 409 IPC, Police Station Lohta, District Varanasi.

4. Present writ petition came up on admission for 28.05.2025 and this Court passed the following order:

" 1. Heard Sri Yogesh Singh, learned counsel for the petitioner and Sri Rahul Asthana, learned A.G.A. for the State.

2. The present writ petition has been filed for the following relief:-

"(a)- Issue a writ, order or direction in nature of CERTIORARI to quash the impugned First Information Report dated 05.07.2022 (Annexure No.1), relating to Case Crime No. 0194 of 2022, Under Section 409 I.P.C., Police Station Lohta, District- Varanasi.

(b)- Issue a writ, order or direction in the nature of MANDAMUS restraining the respondents not to arrest the petitioner in Case Crime No.0194 of 2022, Under Section 409 I.P.C., Police Station Lohta, District- Varanasi."

3. Submission of learned counsel for the petitioner is that even as per the impugned F.I.R., the sole ground is that he has not submitted any reply to the notice calling for his explanation. It is submitted that the explanation has already been submitted and is pending consideration. It was further pointed out that the petitioner, who is Gram Panchayat Secretary and one Pravesh Tiwari, who was Gram Pradhan against both

of them order dated 26.08.2023 was passed by the District Panchayati Raj Officer directing them to deposit certain amount. It was pointed out that Gram Pradhan Pravesh Tiwari challenged the aforesaid order by filing Writ C No. - 3351 of 2025 (Pravesh Tiwari Vs. State of U.P. and 3 others), which was allowed vide order dated 28.04.2025 on the ground that as the impugned order has been passed in complete violation of principles of natural justice and the same is liable to be set aside and was set aside. It is submitted that the case of the petitioner is identical in nature.

4. By drawing attention to contends of paragraph nos. 12 and 13 of the petition, it is submitted that the petitioner was not aware of recovery orders as the same was never communicated to him and he came to know only on 08.01.2025 when the recovery agent from the concerned tehsil contacted him and that during collection of relevant documents petitioner came to know about the impugned F.I.R. hence there is a delay in challenging the impugned F.I.R.

5. Matter requires consideration.

6. All the respondents are granted four weeks time to file counter affidavit. The petitioner shall have three weeks thereafter to file rejoinder affidavit.

7. List thereafter.

8. Till the next date of listing or till submission of police report under Section 193 BNSS, whichever is earlier, the petitioner herein shall not be arrested in pursuance of the impugned First Information Report dated 05.07.2022, registered as Case Crime No. 0194 of 2022, under Section 409 of the Indian Penal Code, Police Station- Lohta, District- Varanasi, provided the petitioner cooperate in the investigation."

6. On perusal of the order sheet, we find that interim order dated 28.05.2025 has not been extended, therefore, on date no interim order is operating in present writ petition.

7. Perusal of the record further shows that the impugned FIR was lodged against petitioner by respondent no. 4 on 05.07.2022. In view of above, we are of the considered opinion that since a period of more than four years has expired from the date of lodging of FIR. the Investigating Officer must have submitted the police report in terms of Section 193(3) BNSS. Prima facie, on account of above reason, no rejoinder affidavit has been filed to the counter affidavit filed on behalf of respondents.

8. In view of above, in our opinion, the writ petition has been rendered infructuous. It is accordingly **dismissed** as having rendered infructuous.

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

October 8, 2026
Monika

(Dr. Ajay Kumar-II,J.) (Rajeev Misra,J.)

Digitally signed by :-
MONIKA KESARWANI
High Court of Judicature at Allahabad