HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 37836 of 2026

Poonam Tripathi

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Shrey Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard Sri Shrey Singh, learned counsel for applicant as well as learned AGA for State.

2. Present application has been preferred with the prayer to quash the chargesheet dated 15.11.2022 and cognizance/summoning order dated 23.3.2023 along with entire criminal proceedings of Case No. 71901 of 2023 arising out of Case Crime No. 136 of 2022, under Sections 406, 506 IPC, P.S.- Swaroop Nagar, District Kanpur Nagar.

3. Learned counsel for applicant argued that applicant has been falsely implicated in the present case by opposite party no.2 only to harass her. Allegation in the FIR is that applicant committed theft of certain jewellery from the house of informant. It is contended that no credible evidences have been collected during course of investigation which would go to show that applicant committed offence in pursuance to aforementioned sections. Learned counsel for applicants has further submitted that the present criminal proceeding is abuse of process of law. The concerned Investigating Officer submitted chargesheet against applicant whereupon without applying its judicial mind, learned court concerned took cognizance of offence over the said chargesheet which is bad in the eye of law and as such, same may be quashed. In support of his submissions, learned counsel for applicant placed reliance upon a judgment passed by Hon'ble the Apex Court in the case of **State of Haryana Vs. Bhajan Lal [1992 Supp (1) SCC 335].**

4. Per contra, learned AGA vehemently opposed the prayer as made in the application by way of submitting that the contentions, which are sought to be raised on behalf of applicant, would relate to disputed questions of fact, and would involve appreciation of evidence.

5. On previous occasion, notices have been issued against opposite party no. 2 and as per office report the same has been served through her husband as reported by learned Chief Judicial Magistrate, Kanpur Nagar, but even after service of notice, none appeared at the behest of opposite party no. 2 either in person or through counsel. No option left but to consider the prayer as made through instant application, since it is the moral and legal obligation over opposite party no. 2 to attend the court proceedings wherein the cause of action for registration of Case Crime no. 136 of 2022 has been put under challenge.

6. After having the rival contentions raised by learned counsel for parties and perusal of the entire material available on record, this Court finds that no case is made out against applicant for proceeding with the trial since only bald and vague allegations have been levelled against the applicant and there is no cogent and credible evidence collected during course of investigation which would corroborate the prosecution story. The records reveals that as per evidence collected by the Investigating Officer, the chances of conviction of applicant are bleak and as such continuance of criminal proceedings against her would amount to abuse of process of law. Moreover, in absence of opposite party no. 2, arguments raised by learned counsel for applicant stands unrebutted.

7. In **Bhajan Lal (supra)**, Hon'ble the Supreme Court had already set out the broad categories of cases in which the inherent power under Section 482 Cr.P.C. could be exercised. Para 102 of the decision reads as follows:

> *'102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of*

any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior

motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.'

8. The case in hand, the allegations against the applicant, such as they are, are wholly insufficient and, prima facie, do not make out a case against her. Further, they are so farfetched and improbable that no prudent person can conclude that there are sufficient grounds to proceed against her. In effect, the present case falls squarely in categories (3) set out in **Bhajan Lal (supra)** and as such, permitting the criminal process to go on against the applicant herein in such a situation would, therefore, result in clear and patent injustice. This is a fit case for exercising its inherent power under Section 528 BNSS to quash entire proceedings.

9. In view of the aforementioned facts and circumstances as well as in light of said decisions of Hon'ble the Apex Court, chargesheet dated 15.11.2022 and cognizance/summoning order dated 23.3.2023 along with entire criminal proceedings of Case No. 71901 of 2023 arising out of Case Crime No. 136 of 2022, under Sections 406, 506 IPC, P.S.- Swaroop Nagar, District Kanpur Nagar, are hereby **quashed only in respect of applicant herein.**

10. Accordingly, the instant application is **allowed**.

(Saurabh Srivastava,J.)

October 29, 2026
Shaswat

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