HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 37208 of 2026

Arman Ali And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Yakub Ali
Counsel for Opposite Party(s)	:	G.A.

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for applicants as well as learned AGA for State.

2. Present application has been preferred with the prayer to quash the chargesheet dated 24.12.2025 and cognizance/summoning order dated 30.06.2026 along with entire criminal proceedings of Case No. 6315 of 2026 arising out of Case Crime No. 208 of 2025, under Sections 316(2), 352, 351(3) BNS, P.S.- Bhitauli, District Maharajganj.

3. Learned counsel for applicants argued that applicants have been falsely implicated in the present case by opposite party no.2 only to harass them. It is contended that no credible evidence has been collected during course of investigation conducted by concerned Investigating Officer. Matter pertains to some incident which occurred when the brother-in-law of the informant was intended to seeking some overseas employment and certain amount has been extended in favour of the applicants but the assurance made at the behest of applicants has not been fulfilled which rises cause of action in favour of the informant/opposite party no. 2 for preferring instant Case Crime no. 0208 of 2025 wherein applicants have been implicated in pursuance to sections 316(2), 352, 351(3) BNS. Learned counsel for the applicants while challenging charge sheet along with summoning order issued by learned court concerned contended that no specific date and time has ever been narrated in the FIR, although the informant is not aggrieved party and nowhere related to the affairs which was, if persisting between the aggrieved person and the applicants and as

such implication of the applicants is highly brazen in the eye of law and the same comes under the ambit of malicious prosecution. The concerned Investigating Officer submitted chargesheet against applicants 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 although vehemently opposed the prayer as made through instant application but did not disputed the factual aspect which has been raised by learned counsel for the applicants that any specific date and time of the offence carried out by the applicants has not been whispered in the narration of the FIR nor the same has been brought to the notice of learned court concerned through charge sheet preferred at the behest of concerned Investigating Officer.

5. Upon notices which has been previously issued by this Court, the same has been reported as served upon opposite party no. 2 but at the time of taking up the instant matter none appeared either in person or through counsel at the behest of opposite party no. 2 as such there is no option left but to consider the prayer as made through instant application on the basis of materials available in the record and after receiving the arguments at the behest of opposite party no. 2 by learned AGA. 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. 0208 of 2025 has been put under challenge.

6. After hearing rival submissions extended by learned counsel for the parties, one thing is crystal clear that the entire allegations are not corroborated with any specific evidence collected during course of investigation which would lead the trial culminate into conviction of the applicants since the entire prosecution is based upon the statements so recorded by informant/opposite party no. 2 who was not the actual witness of the commitment so rendered at the behest of applicants and not fulfilled in shape of sending brother-in-law of the informant for

seeking employment at overseas. The criminal jurisprudence specifically provides implication of the accused and to be tried in the light of strict proof of evidence. By mere allegating a person through narration of the FIR and in the most mechanical manner, the investigation has been conducted by way of preferring charge sheet whereupon in the most mechanical manner cognizance has been taken up and the person/applicants have been summoned is directly and adversely affecting the personal liberty ensured by Constitution of India of that very person/accused who have been summoned in criminal proceeding. Under the scope and ambit of the interference ensured by Statute under Section 528 BNSS for securing the ends of justice, the steps taken up by the Investigating Officer during course of investigation which culminated into preparation of the Case Diary presented before learned court concerned through charge sheet and thereafter on the basis of the evidences so collected, if the cognizance has been taken up by learned court concerned for which required summoning of the concerned accused has to be looked into under the strict frame of the procedure as well as authorities rendered by court of law specifically by the co-ordinate Benches as well as Hon'ble Apex Court.

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 them. Further, they are so farfetched and improbable that no prudent

person can conclude that there are sufficient grounds to proceed against them. 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 applicants 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. In the light of judgment rendered by Hon'ble Apex Court, if the conduction of investigation is lame and fractured for attributing and saddling over the allegations specifically attracting certain sections of BNS is slightly deviated and the same is not going to be lead to conviction, the scope of interference by this Court is required as per the mandate of the procedure of law.

9. In view of aforementioned facts and circumstances, as well as in light of said decisions of Hon'ble the Apex Court, chargesheet dated 24.12.2025 and cognizance/summoning order dated 30.6.2026 along with entire criminal proceedings of Case No. 6315 of 2026 arising out of Case Crime No. 208 of 2025, under Sections 316(2), 352, 351(3) BNS, P.S.- Bhitauli, District Maharajganj, are hereby **quashed only in respect of applicants 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