2026:AHC:208129

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 37953 of 2026

Rajeev Gupta

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

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

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. On the request of learned counsel for applicant, this matter is being taken up out of turn considering the urgency.

2. Heard learned counsel for applicant and learned AGA for State.

3. Although notice which was issued earlier has already been served upon opposite party no.2, in spite of that, no one appeared on behalf of opposite party no.2 even in the revised call either in person or through counsel. It is the moral and judicial obligation of any person to appear before the Court for contesting the matter against whom notices was issued and thereafter served. In case of non-appearance of opposite party no.2 after service of notice, there is no option left before the Court, but to consider the prayer so made through the instant application on the basis of material available on record as well as the arguments so made by learned counsel for the applicant.

4. Present application has been preferred with prayer to quash the entire proceeding of Criminal Case No.843 of 2024 (State vs. Rajeev Gupta) arising out of Case Crime no.533 of 2023, under sections 504, 505(2) IPC, Police Station- Nawabganj, District- Bareilly, pending before learned court of Judicial Magistrate, Nawabganj, Bareilly, including charge sheet dated 05.06.2024 and cognizance/summoning order dated 01.10.2024.

5. Brief facts of the case are that an FIR dated 11.10.2023 at Case Crime No.533 of 2024 has been lodged at the behest of opposite party no.2 against the applicant alleging that the applicant has posted something provocative on

his Facebook account, which is harmful to social harmony in respect of outcome of certain judgement passed by Hon'ble Court, wherein after conducting detail investigation by concerned Investigating Officer, charge sheet has been submitted against the applicant on dated 05.06.2024, upon which cognizance of offence has been taken up by learned court concerned vide order dated 01.10.2024, which impugned the instant petition.

6. Learned counsel for applicant argued that applicant has been falsely implicated in the present case by opposite party no.2 only to harass him, whereas by bare perusal of the narration made in the FIR, there is hardly any allegation levelled against applicant upon which trial can proceed. Learned counsel for applicant sought the attention of Court over the statement recorded at the behest of informant, through which it has been transpired that there is hardly any identity of the name of Santosh, nor any specific caste/religion has been disclosed by the informant himself as well as the same is not specific in the post as alleged to be made at the behest of applicant. Learned counsel for applicant further submitted that the present criminal proceeding is abuse of process of law, since there is hardly any evidence against the applicant in respect of alleged offence. Learned counsel for applicant further submitted that if there is hardly any allegation levelled against applicant, then under which circumstance, the concerned Investigating Officer submitted charge-sheet against them, whereupon without applying its judicial mind, learned court concerned took cognizance of offence over the said charge-sheet 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 judgment passed by Hon'ble the Apex Court in the case of **State of Haryana Vs. Bhajan Lal [1992 Supp (1) SCC 335]**.

7. 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 applicants, would relate to disputed questions of fact, and would involve appreciation of evidence, but at the same time, he could not dispute the above submissions made at the behest of applicant.

8. After having the rival contentions raised by learned counsel for parties and upon perusal of entire material available on record, it is apparent that the arguments raised by learned counsel for applicant seems to be justified, since the allegations as made in the FIR is not corroborating with the material

evidences collected during the course of investigation as well as statements recorded at the behest of informant himself as well as it is apparent from the record that there is no specific mention of any caste/religion in the alleged post made at the behest of applicant.

9. 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./528 BNSS 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.'

10. 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 him. Further, they are so farfetched and improbable that no prudent person can conclude that there are sufficient grounds to proceed against him. In effect, the present case falls squarely in *category (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.

11. In view of the aforementioned facts and circumstances as well as in light of said decisions of Hon'ble the Apex Court, the entire proceeding of Criminal Case No.843 of 2024 (State vs. Rajeev Gupta) arising out of Case Crime no.533 of 2023, under sections 504, 505(2) IPC, Police Station- Nawabganj, District- Bareilly, pending before learned court of Judicial Magistrate, Nawabganj, Bareilly, including charge sheet dated 05.06.2024 and cognizance/summoning order dated 01.10.2024, are hereby **quashed**.

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

13. However, applicant is hereby warned that any next post, if uploaded by the applicant, over social media, which might be controversial in nature, the same shall be subject to prosecution initiated against the applicant.

14. For the present action through which certain controversy has been raised unnecessarily by way of posting the disputed matters over the social media, applicant is hereby directed to deposit **Rs.10,000/- before the Bar**

Association of District Judgeship, Bareilly, which shall be utilized in the welfare of Advocates of District Court, Bareilly. In case of failure of the above direction, District Magistrate, Bareilly is hereby directed to recover the amount as arrears of land revenue from the applicant.

15. Registrar (Compliance) is hereby directed to ensure service of this order upon District Magistrate, Bareilly as well as President of Bar Association, District Judgeship, Bareilly for necessary compliance of above direction.

October 5, 2026
Saif

(Saurabh Srivastava,J.)

Digitally signed by :-
SHAIKH SAIF ABDIN
High Court of Judicature at Allahabad