HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 38178 of 2026

Anand Patel And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ashok Kumar Mishra, Vijay Puri
Counsel for Opposite Party(s)	:	Anand Kumar, Bhawesh Pratap Singh, G.A.

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for applicants and Sri Bhavesh Pratap Singh, learned counsel for opposite party no.2 as well as learned AGA.

2. Present application has been preferred with the prayer to quash the chargesheet dated 19.2.2025 and cognizance/summoning order dated 16.10.2025 along with entire criminal proceedings of Case No. 53693 of 2025 (State Vs. Anand Patel and others), arising out of Case Crime No. 238 of 2024, under Sections 115(2), 191(2), 352, 351(2), 324(4) BNS, P.S.- Rajatalb, District Varanasi.

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, whereas by bare perusal of the narration made in the FIR, there is hardly any allegation levelled against applicants upon which trial can proceed. Allegation in the FIR is that applicants have beaten opposite party no. 2. The injured persons have been examined by the concerned doctor and they stated complaint of pain and doctor advised for X-ray wherein NAD has been found. Applicants have been implicated only in non-cognizable offences except Section 191(2) BNS. There are no material evidence collected during course of investigation which would go to show that offence in aforesaid sections is made out against the applicants. Learned counsel for applicants has further submitted that the present criminal proceeding is abuse of process of law. Learned counsel for applicants further submitted that if there is hardly any allegation levelled against

applicants then under which circumstance, the concerned Investigating Officer submitted chargesheet against them 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 counsel for opposite party no.2 as well as 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.

5. 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 applicants for proceeding with the trial since implication of the applicants in respect of sections in which cognizance has been taken up are all in non-cognizable offences except Section 191(2) BNS which denotes whoever is guilty of rioting shall be punished with either description for a term which may extend to two years or with fine or with both. So far as attraction of offence of rioting is concerned which has been defined under Section 191(1) BNS, it emphasizes every member of such assembly and so far as assembly is concerned, the same is defined under Section 189(1) of BNS. Learned counsel for the applicant submitted that if the illegal assembly does not commit any offence contained as a cognizable offence, only by way of putting the accused under Section 191(2) BNS does not create any ground in favour of the prosecution for putting accused for cognizable offences since the offence which has been carried out by the accused are crystal clear that those are non-cognizable. Further the evidences collected during course of investigation along with injury report prepared by concerned treating doctor does not disclose any specific injuries caused by the accused who are 6 in numbers. Sri Bhavesh Pratap Singh, learned counsel for opposite party no. 2 sought the attention of the Court over the injury reported by radiologist in supplementary medical examination which has been conducted after the radiology test i.e. X-ray although same has been

reported as No Abnormality Detected but at the last an observation has been made for soft tissue swelling present over root of thumb, this examination does not contain the specific report of the radiologist rather same has to be reported by the medico-legal examiner who examined the injured at first and as such no ground is available for putting applicants for facing trial.

6. 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.'

7. The case in hand, the allegations against the applicants, 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.

8. In view of the aforementioned facts and circumstances as well as in light of said decisions of Hon'ble the Apex Court, chargesheet dated 19.2.2025 and cognizance/summoning order dated 16.10.2025 along with entire criminal proceedings of Case No. 53693 of 2025 (State Vs. Anand Patel and others), arising out of Case Crime No. 238 of 2024, under Sections 115(2), 191(2), 352, 351(2), 324(4) BNS, P.S.- Rajatalb, District Varanasi, are hereby **quashed qua applicants herein**.

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

(Saurabh Srivastava,J.)

October 29, 2026
Shaswat

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