**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**APPLICATION U/S 528 BNSS No. - 39217 of 2026**

Sohil Khan

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

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Counsel for Applicant(s) : Deepak Kumar Kulshrestha
Counsel for Opposite Party(s) : G.A.

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**Court No. - 76**

**HON'BLE SAURABH SRIVASTAVA, J.**

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

2. 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 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.

3. The instant application has been preferred for seeking quashing of the charge-sheet dated 29.12.2024 along with cognizance/summoning order dated 2.2.2026 and the entire proceedings of Case No. W/S-2001 of 2026 (State vs. Sohil), arising out of Case Crime No. 320 of 2024, under sections 137(2), 351(2), 351(3) BNS, P.S. Malpura, District- Agra pending before learned court of Additional Chief Judicial Magistrate, Court no. 2, Agra.

4. Brief facts of the case are that an FIR dated 01.09.2024 being Case Crime No. 0320 of 2024 has been lodged by opposite party no.2 against the applicant and other co-accused persons alleging that on dated 30.8.2024 at about 3:00 am in the midnight, applicant has enticed away his daughter (aged about 16 years) and she is missing since then, wherein after conducting detail investigation by concerned Investigating Officer, charge-sheet has been submitted against the applicant in pursuance to section 137(2), 351(2), 351(3) BNS on dated 29.12.2024, upon which cognizance of offence has been taken up by learned court concerned vide order dated 2.2.2026, which impugned the instant application.

5. Learned counsel for applicant argued that applicant has been falsely implicated in the present case by opposite party no.2 only to harass him, since no offence as alleged has ever been committed by him. Learned counsel for applicant sought the attention of Court over the statements of victim recorded under section 180 & 183 BNSS, wherein she clearly stated that she has went with the applicant out of her own free will and applicant has nowhere committed any offence, which has been mentioned in the FIR. Learned counsel for applicant further submitted that the present criminal proceeding initiated against the applicant is abuse of process of law. Learned counsel for applicants lastly submitted that without conducting fair investigation, the concerned Investigating Officer submitted charge-sheet against the applicant, whereupon without applying its judicial mind, learned court concerned took cognizance of offence, 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].**

6. 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, he could not dispute the above submissions as made by learned counsel for applicant.

7. After having the rival contentions raised by learned counsel for parties and upon 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 the allegations as made in the narration of FIR against him has been crystal clearly rebutted through the statement of victim recorded under section 180 and 183 BNSS and there is hardly any chances of the conviction of applicant after culmination of trial. Learned AGA also submitted that no criminal history is credited against the applicant herein. Moreover, in absence of opposite party no. 2, arguments raised by learned counsel for applicant stands unrebutted.

8. 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.'*

9. 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 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.

10. In view of the aforementioned facts and circumstances as well as in light of said decisions of Hon'ble the Apex Court, chargesheet dated 29.12.2024 and cognizance/summoning order dated 2.2.2026 along with entire criminal proceedings of Case No. W/S-2001 of 2026 (State vs. Sohil), arising out of Case Crime No. 320 of 2024, under sections 137(2), 351(2), 351(3) BNS, P.S. Malpura, District- Agra, are hereby **quashed only in respect of applicant herein.**

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

**October 29, 2026**
Shaswat

**(Saurabh Srivastava,J.)**

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