HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 39323 of 2026

Kapil And 3 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Premdhan Kumar, Ram Bali Ram
Counsel for Opposite Party(s)	:	G.A.

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

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

2. Despite service of notice, none appeared on behalf of opposite party no.2 either in person or through counsel even in revised call. It is the moral and judicial obligation over the opposite party no.2 to respond the notices which has been issued by this Court either in person or through counsel, but in absence of the same, no option left but to consider the arguments so raised by learned counsel for the applicant on the basis of material available on record.

3. Present application has been preferred with the prayer to quash the chargesheet dated 13.06.2023 and cognizance/summoning order dated 31.01.2024 along with entire criminal proceedings of Case No.1039 of 2024, (State Vs. Kapil and others), arising out of Case Crime No. 207 of 2023, under Sections 323, 504, 506 IPC, P.S. Pharenda, District Maharajganj, pending in the court of learned Judicial Magistrate, Pharenda, District Maharajganj.

4. 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. Learned counsel for applicants further submits that present FIR was lodged on 30.05.2023 by the first informant, Smt. Sumitra, wife of Chhote Lal, in respect of an alleged incident dated 26.05.2023. It is

contended that the genesis of the dispute lies in a longstanding dispute relating to objection for keeping the brick on the path (Rasta), pursuant to which a quarrel took place on 26.05.2023 between the parties. Learned counsel for applicant further submits that, in the course of the aforesaid incident, the informant, along with Parvati, assaulted applicant no. 4 with kicks, fists and a danda, as a result of which injuries were sustained. In connection with the same incident, Geeta, wife of Ramnath, applicant no. 2, lodged an FIR on 13.06.2023, which was registered as Case Crime No. 233 of 2023. It is, thus, contended that the present FIR is a counterblast to the aforesaid cross-version of the incident and has been lodged with an ulterior motive to exert pressure upon the applicants. Learned counsel for applicants further submits that there is an unexplained delay of approximately four days in lodging the present FIR, which casts a serious doubt upon the prosecution version, particularly when no satisfactory explanation for such delay is forthcoming from the first informant. Learned counsel for the applicants also submits that the injuries sustained by the injured persons have been opined to be simple in nature. It is further contended that, apart from the alleged incident of assault, no specific incident of theft or snatching actually took place, nor has any article allegedly stolen or snatched been recovered during the course of investigation. Thus, the allegations relating to theft and snatching are stated to be wholly unsubstantiated and have been introduced merely with a view to giving a criminal colour to an otherwise trivial dispute arising out of a passage-related controversy.

5. 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]**.

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.

7. 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 the allegations as made that applicants have been made on the basis of concocted story which requires investigation, are entirely vague in nature. In a similar matter, in the case of **Sanjay D. Jain & others Vs. State of Maharashtra & others [2025 LiveLaw (SC) 960]**, wherein Hon'ble the Apex Court has held that if the allegations as made were entirely vague in nature and in the absence of any details whatsoever it could not be said that even a prima facie case had been made out for proceeding with the trial.

8. In the case of **Mahmood Ali and others vs. State of U.P. and others (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023)**, Hon'ble the Supreme Court observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C. or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.

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. 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 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 (1) (3) and (5)* 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, chargesheet dated 13.06.2023 and cognizance/summoning order dated 31.01.2024 along with entire criminal proceedings of Case No.1039 of 2024, (State Vs. Kapil and others), arising out of Case Crime No. 207 of 2023, under Sections 323, 504, 506 IPC, P.S. Pharenda, District Maharajganj, pending in the court of learned Judicial Magistrate, Pharenda, District Maharajganj, pending in the court of learned Chief Judicial Magistrate, Agra, are hereby quashed.

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

October 29, 2026
Ashish/-

(Saurabh Srivastava,J.)

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