2026:AHC:209643

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 14090 of 2026

Sanket Kumar Sharma And Another

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s) : Ashwani Tripathi, Ramanuj Tripathi
Counsel for Respondent(s) : G.A., M.P.S. Chauhan

Court No. - 55

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard learned counsel for petitioners, Sri M.P.S. Chauhan, learned counsel for opposite party no.2 and learned AGA for the State.

2. The petition is filed with the following prayer:

"A. Issue an order or direction setting aside the impugned judgment and order dated 03.07.2026, passed by Learned Additional District and Sessions Judge, Court No. 11, Aligarh, in Criminal Revision No. 429 of 2025 (Sanket and another Vs. State of U.P. and anther), and impugned judgement and order dated 12.09.2025 passed by Learned Judicial Magistrate, Khair, Aligarh, passed on Application under section 319 Cr.P.C. in Case No. 982 of 2016 (State Vs. Abhishek and Others), Under Sections-323, 504, 506 of I.P.C. Police Station-Khair, District-Aligarh, arising out of N.C.R. No. 212 of 2011, Police Station-Khair, District-Aligarh, whereby the applicants have been summoned."

3. It is submitted by learned counsel for petitioners that initially the Non Cognizable Report was lodged 11.6.2011 in respect of incident dated 11.6.2011 where it has been stated that accused Abhishek, Pramar, Sanket and Antu have assaulted the injured person. Injured were medically examined and after investigation charge sheet has been submitted against other co-accused persons, however, no charge sheet has been submitted against petitioners. Learned counsel for petitioners submits that at the stage of Section 319 Cr.P.C. petitioners have been summoned under Sections 323, 504, 506 IPC by order dated 12.9.2025. The aforesaid order was challenged before the revisional court, however, the revision was

rejected by order dated 3.7.2026. It is submitted by learned counsel for petitioners that petitioners have been summoned on the strength of statements of P.W.-1 and P.W.-2, who have stated that petitioners were also one of the person, who have assaulted. It is submitted by learned counsel for petitioners that trial court while considering the aforesaid aspect by order dated 12.9.2025 has summoned the petitioners. Considering the statement under Section 161 Cr.P.C. is not permissible as the charge sheet was taken cognizance by the court concerned. It is further submitted by learned counsel for petitioners that petitioners were not present at the place of occurrence on the alleged date and in this respect, certificate of Director of Hostel Bikaner has been submitted.

4. On a pointed query being made to learned counsel for petitioners whether any statement under Section 161 Cr.P.C. of the Director of Hostel Bikaner has been recorded by the police authority, learned counsel for petitioners could not demonstrate that the statement has been recorded.

5. It is to be seen that the trial court has recorded a finding that there is consistency in the statements of P.W.-1 and P.W.-2 and the injured witness during investigation as well as in the statement before the court that the petitioners were one of the person, who have assaulted the injured and therefore petitioners have been summoned.

6. It is to be noted that so far as question of *alibi* is concerned, it is a plea of defence, which is required to be proved by the petitioners. Further it is to be noted that petitioners have already appeared before the trial court and has been enlarged on bail by order dated 21.1.2026. Once the petitioners have already appeared before the trial court then this Court does not deem it proper, at this stage, to interfere in the impugned order.

7. Accordingly, the petition lacks merit and is **dismissed**.

(Vikram D. Chauhan,J.)

October 7, 2026
D. Tamang

Digitally signed by :-
DHIRENDRA TAMANG
High Court of Judicature at Allahabad