2026:AHC:210799

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 42126 of 2026

Mo. Saif

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Suneel Kumar Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Heard Sri Suneel Kumar Yadav, learned counsel for the applicant, Sri Jyoti Kumar Singh, learned A.G.A. for the State and perused the record.

2. The present application under Section 528 B.N.S.S. has been filed with the prayer to quash the charge sheet dated 19.01.2024 as well as summoning/cognizance order dated 03.05.2024 passed by the Judicial Magistrate FTC Women, Azamgarh in Case No. 363 of 2024 (State Vs. Mo. Saif and others), arising out of case Crime No. 374 of 2023, under Sections 498-A, 342, 323, 506 of IPC and 3/4 D. P. Act, Police Station Pawai, District Azamgarh, pending in the court of Judicial Magistrate FTC Women, Azamgarh.

3. At the very outset, during course of arguments, it has emerged from the record that the applicant had previously preferred an application under Section 482 Cr.P.C. bearing No. 22707 of 2024 (Mohammad Saif Vs. State of U.P. and another) seeking substantially identical relief. The said application was dismissed by this Court, by following order dated 26.07.2024:

" 1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. This application u/s 482 Cr.P.C. has been filed with the prayer to quash the entire proceedings, including cognizance/summoning order dated 03.05.2024, of Case No. 363 of 2024 (State Vs. Mohammad Saif and others), arising out of Case Crime No. 374 of 2023, under Sections 498A, 342, 323, 506 IPC, Section 3/4 of D.P. Act, P.S.- Pawai, District- Azamgarh, pending in the court of Judicial Magistrate/F.T.C. Women, Azamgarh.

3. It has been submitted by learned counsel for the applicant that applicant is husband of informant and their marriage has taken place on 18.08.2022. The allegations of demand of Rs. 5 lakhs and harassment of informant on account of dowry, are wholly false. It was submitted that in fact a case of cow slaughter is pending against applicant and due to that reason, the informant did not want to live with him and she has lodged First Information Report making false and baseless allegations. The informant has alleged that she was assaulted by the applicant but no medical examination of informant has been conducted. It was submitted that no prima facie

case is made out against the applicant.

4. Learned A.G.A. has opposed the application and submitted that applicant is husband of informant and in view of allegations levelled in the FIR against the applicant and material collected during investigation, a prima-facie case is made out against the applicant.

5. I have considered the rival submissions and perused the record.

6. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases. However, where the allegations made in the FIR or the complaint and material on record even if 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, the charge-sheet may be quashed in exercise of inherent powers under Section 482 of the Cr.P.C. In well celebrated judgement reported in AIR 1992 SC 605 State of Haryana and others Vs. Ch. Bhajan Lal, Supreme Court has carved out certain guidelines, wherein FIR or proceedings may be quashed but cautioned that the power to quash FIR or proceedings should be exercised sparingly and that too in the rarest of rare cases. In this connection, a reference may also be made to the case of R. Kalyani vs. Janak C. Mehta and Others, 2009 (1) SCC 516, Rupan Deol Bajaj vs. K.P.S. Gill (1995) SCC (Cri) 1059, Rajesh Bajaj vs. State of NCT of Delhi, (1999) 3 SCC 259 and Medchl Chemicals & Pharma (P) Ltd vs. Biological E Ltd. & Ors, 2000 SCC (Cri) 615. It has been held that if a prima facie case is made out disclosing ingredients of the offence, court should not quash the charge sheet/complaint. It is equally well settled that at this stage questions of fact cannot be examined and a mini trial cannot be held.

7. In the instant matter, it may be seen that applicant is husband of informant. The informant has alleged that applicant has harassed her on account of dowry and he has kept her confined for one week and assaulted her. The submissions raised by learned counsel for the applicant call for determination on questions of fact, which may adequately be discerned/adjudicated only by the trial court. Even the submissions made on point of law can also be more appropriately gone into by the trial court. In the instant matter, in view of allegations made in the first information report and the material collected during investigation, it cannot be said that no prima facie case is made out against the applicant. Hence, the present application under Section 482 Cr.P.C. is liable to be dismissed.

8. The instant application u/s 482 Cr.P.C. is hereby dismissed."

4. Notably, in the present application, the applicant has completely suppressed the filing and disposal of earlier application. There is not a single averment in the entire application disclosing the prior long litigation between the same parties for the same cause of action.

5. It is a settled principle of law that a person who approaches the Court with uncleaned hands and suppresses material facts is not entitled to be heard on merits. The jurisdiction under Section 528 B.N.S.S. is inherent and equitable in nature, meant to prevent abuse of the process of any Court and to secure the ends of justice. It cannot

be permitted to be converted into a tool for forum-hunting or endless litigation by re-agitating the same issue through successive applications while suppressing earlier proceedings.

6. Repeated filing of second applications under Section 528 B.N.S.S. for identical relief without any material change in circumstances-and particularly with deliberate suppression of earlier proceedings-amounts to a gross abuse of the process of the Court.

7. This Court is generally reluctant to impose pecuniary costs upon litigants, firmly believing that access to justice should not be rendered punitive. However, this Court is now compelled to do so. Of late, a trend has emerged where such applications are being filed in a routine and casual manner by litigants, burdening the judicial system and consuming precious court time that could otherwise be devoted to genuine litigants waiting in line for justice. If such attempts are allowed to pass without deterrent consequences, it will embolden unscrupulous litigants to treat court proceedings as a game of chance.

8. Consequently, the present application under Section 528 B.N.S.S. is dismissed as not maintainable, on the ground of deliberate suppression of material facts and abuse of the process of law.

9. A cost of Rs. 20,000/- is hereby imposed upon the applicant. The said cost shall be deposited by the applicant with the District Legal Services Authority, Azamgarh within a period of four weeks from today, failing which the trial court concerned shall proceed to recover the same, as per the provisions of law.

10. Registrar (Compliance) is directed to communicate a copy of this order to the trial court concerned for necessary compliance within 48 hours.

October 8, 2026
Rmk.

(Chawan Prakash,J.)

Digitally signed by :-
RAM MURTI KUSHWAHA
High Court of Judicature at Allahabad