HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 24120 of 2026

Suman Devi And 6 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ramesh Chandra Dwivedi, Vishesh Rajvanshi
Counsel for Respondent(s)	:	G.A., Shashank Tripathi

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE TARUN SAXENA, J.

1. Heard Mr. Daya Shankar Mishra, the learned Senior Counsel assisted by Mr. Vishesh Rajvanshi, the learned counsel for petitioners, the learned AGA representing State-respondents 1 and 2 and Mr. Kumar Dhananjay, Advocate, holding brief of Mr. Shashank Tripathi, the learned counsel representing first informant-respondent 3.

2. Perused the record.

3. Petitioners, Suman Devi and 6 others, have approached this Court by means of present criminal misc. writ petition, challenging the impugned F.I.R. dated 22.9.2026, lodged by first informant- respondent 4, Ashok Kumar Pandey and registered as Case Crime No. 0431 of 2026, under Sections 190, 191(2), 191(3), 115(2), 351(2), 352, 333, 109 of B.N.S., Police Station Nawabganj, District Ganganagar (Commissionerate Prayagraj).

4. Mr. Daya Shankar Mishra, the learned Senior Counsel for petitioners, in challenge to the impugned F.I.R., submits that criminal prosecution of petitioners pursuant to the impugned F.I.R. is not only malicious but also an abuse of the process of Court. As such the impugned F.I.R. is liable to be quashed by this Court.

5. In furtherance of aforesaid submission, the learned Senior Counsel for petitioners contends that in respect of an occurrence which is alleged to be occurred on 8.9.2026 at 5:00 pm, a prompt F.I.R. dated 9.9.2026 was lodged by Prabha Shankar Chaturvedi, Advocate, on behalf of petitioners which was

registered as Case Crime No. 0389 of 2026, under Sections 191(2), 191(3), 115(2), 352, 109(1), 110 BNS, Police Station- Nawabganj, District- Ganga Nagar (Commissionerate Prayagraj). In the aforesaid F.I.R., eight persons, namely, Anand, Ashish, Ashok, Nitin, Tulsidas, Shivanchal, Akash and Vikash were nominated as named accused.

6. After aforementioned F.I.R. was lodged and after an expiry of a period of 14 days the impugned F.I.R. came to be lodged by first informant and registered as Case Crime No. 0431 of 2026, under Sections 190, 191(2), 191(3), 115(2), 351(2), 352, 333, 109 of B.N.S., Police Station Nawabganj, District Ganganagar (Commissionerate Prayagraj).

7. On the above premise, the learned Senior Counsel for petitioners submits that the impugned F.I.R. has been engineered as a counter blast to the criminal proceedings initiated pursuant to the earlier F.I.R. dated 9.9.2026. As such the same is wholly malicious. No explanation has come forward in the impugned F.I.R., explaining the delay of 14 days in lodging the F.I.R. Since there is delay in lodging the F.I.R. and the said delay having not been sufficiently explained, the criminal prosecution of the petitioners pursuant to such a belated F.I.R. cannot be sustained.

8. It is further contended by the learned Senior Counsel for petitioners that as per the allegations made in F.I.R., it cannot be said that an offence under Section 307 IPC/109 BNS can be said to be made out against petitioners. It is lastly contended by the learned Senior Counsel for petitioners that in the F.I.R. giving rise to present writ petition, no explanation has come forward with regard to the injury sustained by the husband of petitioner 5, namely, Uma Shankar.

9. On the addifice of above submission it is thus urged by the learned Senior Counsel that criminal prosecution of the petitioners pursuant to the impugned F.I.R. is not only malicious but also an abuse of the process of Court. As such the impugned F.I.R. is liable to be quashed by this Court

10. Per contra, the learned A.G.A. representing State respondents 1, 2 & 3 and the learned counsel representing first informant-respondent 4 have vehemently opposed the present writ petition. The learned A.G.A. submits that since upon perusal of impugned F.I.R. commission of a cognizable offence is clearly disclosed, therefore, no indulgence be granted by this Court in present writ petition. It is further contended by the learned A.G.A.

that as per the allegations made in the F.I.R. a *prima facie* case is made out. Since, at this stage, it is only a *prima facie* case to be looked into, therefore, no interference is warranted by this Court in present writ petition.

11. Learned A.G.A. has then referred to instructions received by him. On basis thereof, he submits that in the incident which occurred on 8.9.2026 one person, namely, Ashok Prasad Pandey, who is the first informant, has sustained injuries on his person. The injured was examined on the date of occurrence itself i.e. 8.9.2026. He, therefore, submits that the present case is not a case of no injury.

12. Learned AGA has then submitted that in respect of the occurrence, which is alleged to have occurred on 8.9.2026, cross FIRs have been lodged from both the sides. As such, *prima facie*, occurrence is admitted to the parties. In view of the above, the primary question to be answered is as to who is the aggressor. The said question can be answered only during the course of trial and not in isolation of petitioners. On the above premise the learned A.G.A. submits that no interference is warranted by this Court in present writ petition. As such, present petition is liable to be dismissed by this Court.

13. Having heard the learned Senior Counsel for petitioners, the learned learned AGA representing State-respondents 1 to 3, the learned counsel representing first informant-respondent 4 and upon perusal of record, we find that it is an admitted fact to the parties that in respect of an occurrence which is alleged to have occurred on 8.9.2026, cross FIRs have been lodged. As such occurrence is *prima facie* admitted to the parties. In view of above, the primary question to be considered is as to who is the aggressor. The said question cannot be answered either way at this stage but only during the course of trial. Moreover, the said question cannot be answered in isolation of petitioners.

14. We further find that injuries have been sustained by persons from both the sides. As such it cannot be said that present case is a case of no injury.

15. The submission urged by the learned Senior Counsel for petitioners that as in the impugned FIR no explanation has come forward with regard to the injuries sustained by the husband of petitioner-5, namely, Uma Shankar and also no explanation having been offered with regard to the delay in lodging the FIR, the veracity of the FIR becomes doubtful, and the petitioners cannot

be prosecuted on the basis of a doubtful F.I.R. We are afraid of the aforesaid submission urged by the learned Senior Counsel for the petitioners. The Apex Court in the case of **Mohd. Wajid vs. State of U.P.; 2023 SCC OnLine SC 951** has observed that the Court should make an endevour to decide the veracity of the F.I.R. not with reference to the allegations made in the F.I.R. but also with reference to other material on record. As per the instructions received by the learned A.G.A. it has come on record that the informant has sustained injuries on his person who was medically examined on 8.9.2026 i.e. on the date of incident. The veracity of this medical report which is part of the instructions, received by the learned A.G.A. cannot be doubted by us at this stage.

16. For all the reasons given above, we are of the considered opinion that no good or sufficient ground has emerged so as to quash the impugned F.I.R. As such the prayer for quashing the impugned F.I.R. is hereby refused.

17. Accordingly, the writ petition shall stand **dismissed**.

18. However, considering the fact that petitioners 2 and 7 are minors and petitioners 1, 3, 5 and 6 are ladies, therefore, they are entitled to the benefit of the provisions contained in Section 480 BNSS.

19. However, in case petitioners apply for bail before court below within a period of three weeks from today along with a certified copy of this order, the court below shall decide the bail application of petitioners strictly in the light of the medical evidence on record as well as the provisions contained in Section 480 BNSS as well as the law laid down by Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another (2022 SCC OnLine SC 825).** The court shall not be swayed by the charging sections, mentioned in the impugned F.I.R.

October 24, 2026
Vandana

(Tarun Saxena,J.) (Rajeev Misra,J.)

Digitally signed by :-
VANDANA GAUTAM
High Court of Judicature at Allahabad