2026:AHC:227890

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 46042 of 2025

Rakesh Kumar Kesarwani

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Bikas Pathak, Preyansh Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Case called out in the revised call. Despite service of notice, none has appeared on behalf of the opposite party no. 2. Heard learned counsel for the applicant and learned Additional Government Advocate for the State.

2. The present application under Section 528 of the B.N.S.S, for quashing the entire proceedings of Criminal Case No. 3709 of 2019 (State vs. Rakesh Kumar Kesarwani), arising out of Case Crime No. 0585 of 2018, under Sections 352, 504 and 506 IPC, Police Station Nawabganj, District Prayagraj, including the charge-sheet dated 08.12.2018 and the cognizance/summoning order dated 30.07.2019 passed by the learned Additional Chief Judicial Magistrate-7, Allahabad.

3. As per the prosecution story, the First Information Report lodged by opposite party no. 2, Mohanlal Kesarwani, on 13.11.2018 regarding an incident dated 04.11.2018, in brief, is that on 04.11.2018 at about 5:00 P.M., the informant was getting the grass cleaned from the drain situated in front of his shoe and slipper shop, as mosquitoes were breeding there. It is alleged that during the cleaning process, the named accused persons, namely, the applicant Rakesh Kumar Kesarwani and his wife, came there and started abusing the informant. They objected to the cleaning of the drain on the ground that it was situated adjacent to their shop and was being pushed towards them. It is further alleged that both of them abused the informant's mother, sister and daughter in filthy language, tried to enter his shop, challenged him to come down from the shop and threatened to beat him with twenty shoes. They also insulted him in the crowded market and threatened to kill him. On the

basis of the written complaint, Case Crime No. 0585 of 2018 was registered under Sections 352, 504 and 506 I.P.C. at Police Station Nawabganj, District Prayagraj. During investigation, the Investigating Officer found no sufficient evidence against the applicant's wife and exonerated her. However, the charge-sheet dated 08.12.2018 was submitted against the applicant alone under Sections 352, 504 and 506 I.P.C. The learned Additional Chief Judicial Magistrate-7, Allahabad, took cognizance of the matter and summoned the applicant vide order dated 30.07.2019.

4. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case with a malafide intention to harass and pressurize him. The applicant and opposite party no. 2 are neighbours, and the dispute arose out of a minor issue relating to the cleaning of a drain situated outside their adjoining shops, during which only a heated argument took place. It is further submitted that no specific abusive words, threats or allegations disclosing the use of criminal force or assault have been made against the applicant to constitute offences under Sections 352, 504 and 506 I.P.C. The Investigating Officer has also found the allegations against the co-accused wife to be false. Niether any injury was caused to the informant, nor any injury report is available on record. Therefore, the continuation of the criminal proceedings against the applicant would amount to an abuse of the process of law.

5. Per contra, learned A.G.A. for the State opposed the submission made by learned counsel for the applicant and submitted that the Investigating Officer collected sufficient material during investigation, including the statements of the informant and other witnesses recorded under Section 161 Cr.P.C., which prima facie disclose the commission of offences under Sections 352, 504 and 506 I.P.C. against the applicant. It is further submitted that the objections raised by learned counsel for the applicant regarding the credibility of the witnesses, the nature of the dispute and the absence of independent corroboration are matters of defence and can be examined during trial.

6. Having heard learned counsel for the parties and perused the material available on record, this Court finds that neither the F.I.R. nor the statement of the informant discloses any specific abusive words

allegedly used by the applicant. It appears that only a heated argument took place between the parties. To constitute an offence under Section 504 I.P.C., the intentional insult must be of such a nature that it is likely to provoke the person insulted to break the public peace or commit any other offence. In the present case, the essential ingredients of the offence under Section 504 I.P.C. are not made out against the applicant.

7. So far as the offence under Section 352 I.P.C. is concerned, the allegations in the F.I.R. do not disclose any specific act of assault or use of criminal force by the applicant. The allegations are general in nature and arise out of the same neighbourhood dispute. No specific material has been brought on record to show that the applicant intentionally used criminal force against the informant.

8. Similarly, to constitute an offence under Section 506 I.P.C., there must be a threat of injury to the person, reputation or property of another, coupled with the intention to cause alarm. A perusal of the F.I.R. shows that the dispute arose out of a minor issue regarding the cleaning of a drain. In the absence of any specific material disclosing a threat coupled with an intention to cause alarm, the essential ingredients of the offence of criminal intimidation are not made out against the applicant.

9. The Hon'ble Supreme Court in **Manik Taneja v. State of Karnataka, 2015 (7) SCC 423**, has held that mere expression of words, without any intention to cause alarm, would not be sufficient to constitute an offence of criminal intimidation.

10. A similar view has recently been reiterated by the Hon'ble Supreme Court in **Tuhin Kumar Biswas @ Bumba v. State of West Bengal, 2025 SCC OnLine SC 2604,** wherein the Court held as under:

> *"Further, in order to constitute an offence of criminal intimidation punishable under Section 506 of IPC, it must be shown that the person charged, threatened another with injury to his person, reputation or property or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm. Except for the bald allegation that the*

appellant-accused intimidated the complainant by clicking her photographs, the FIR and chargesheet are completely silent about the manner in which the complainant was threatened with any injury to her person or her property. The words, if any, uttered by the complainant are not mentioned in the FIR. Additionally, as stated above, the complainant or her associates never made a statement to substantiate her allegation. Consequently, in the present case, if the allegations in the FIR are taken at face value, the ingredients of offence of criminal intimidation are not attracted."

13. In the present case, the dispute arose out of minor issue regarding the cleaning of a drain and the co-accused/wife of the applicant has already been exonerated by the Investigating Officer due to lack of evidence. The allegations against the applicant are general in nature. In view of the law laid down by the Hon'ble Supreme Court in the above-mentioned judgments, permitting the criminal proceedings to continue on the basis of such vague allegations would amount to an abuse of the process of the Court.

14. Accordingly, the application under Section 528 B.N.S.S. is allowed and the entire proceedings of Criminal Case No. 3709 of 2019 (State vs. Rakesh Kumar Kesarwani), arising out of Case Crime No. 0585 of 2018, under Sections 352, 504 and 506 I.P.C., Police Station Nawabganj, District Prayagraj, pending before the learned Additional Chief Judicial Magistrate-7, Allahabad are hereby quashed qua the applicant Rakesh Kumar Kesarwani.

November 2, 2026
Akbar

(Madan Pal Singh,J.)

Digitally signed by :-
MOHAMMAD AKBAR
High Court of Judicature at Allahabad