2026:AHC:208666

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 46986 of 2025

Bhavesh Sharma And 3 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Jai Prakash Prasad, Virendra Pratap Pal
Counsel for Opposite Party(s) : Devendra Kumar Mishra, G.A.

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State, learned counsel for opposite party no.2 and perused the record.

2. The present application has been filed for quashing of the charge-sheet dated 17.10.2023, summoning order dated 03.01.2024 passed by the learned A.C.J.M., Court No.1, Aligarh in Criminal Case No.28 of 2024, arising out of Case Crime No.317 of 2023, under Sections 420, 467, 468, 471, 147, 323, 504 and 506 I.P.C., Police Station Gandhi Park, District Aligarh, and the entire proceedings arising therefrom.

3. Learned counsel for the applicants submits that the dispute between the parties is essentially civil in nature regarding the title and possession of the property in question. Applicant no.1 claims to have purchased 63.03 sq. metres of land from Harpal Singh on 22.09.1999 for Rs.35,000/- and subsequently, with the permission of Harpal Singh, his attorney holder executed a sale deed dated 24.06.2022 in favour of applicant no.1. It is submitted that applicant no.1 had already instituted Original Suit No.233 of 2023 for permanent injunction and had also lodged an F.I.R. dated 28.04.2023 against opposite party no.2 and others. The impugned F.I.R. dated 08.06.2023 is therefore a counterblast.

4. Per contra, learned counsel for opposite party no.2 submits that the applicants have relied upon forged and fabricated documents and have committed offences of cheating and forgery. Opposite party no.2 claims to have purchased the shop through registered sale deed dated 04.06.2022 from Mrigendra Pal Singh. It is submitted that the statement of Harpal Singh itself raises a serious issue regarding the genuineness of the alleged power of attorney and, therefore, supports the necessity of trial rather than quashing of the proceedings.

5. Learned A.G.A. has opposed the application and submits that the Investigating Officer, after considering the material collected during

investigation, has submitted charge-sheet and the learned Magistrate has taken cognizance. The disputed documents and the statement of Harpal Singh require appreciation of evidence at trial.

6. Having considered the rival submissions, this Court finds that the statement of Harpal Singh is an important piece of material in the present case. Harpal Singh has specifically denied execution of the alleged power of attorney in favour of Smt. Shashi Sharma and has further stated that he neither received any consideration from her nor put his signatures upon the said document, alleging that his signatures were forged.

7. The categorical denial by Harpal Singh gives rise to a serious and disputed question regarding the genuineness and use of the alleged power of attorney, which is directly connected with the allegations of cheating, forgery and use of forged documents made in the F.I.R.

8. Whether the alleged power of attorney was in fact executed by Harpal Singh, whether the signatures appearing thereon are genuine or forged, and whether the applicants knowingly relied upon or used any forged document are questions of fact requiring appreciation of evidence. The statement of Harpal Singh, therefore, cannot be converted into a conclusive finding of innocence in proceedings under Section 528 BNSS.

9. The Supreme Court in ***State of Haryana v. Bhajan Lal, 1992 Supp. (1) SCC 335***, has held that the power of quashing criminal proceedings is to be exercised sparingly and that proceedings may be quashed only in the illustrative categories indicated therein, including where the allegations, even if taken at their face value, do not constitute an offence or where the proceedings are manifestly attended with mala fide.

10. In the present case, the allegations, taken at their face value, disclose cognizable offences. The statement of Harpal Singh does not make the prosecution inherently absurd or improbable; rather, it furnishes material requiring examination of the disputed document and the conduct of the parties during trial. The plea that the proceedings are a counterblast also involves a disputed question of fact.

11. The existence of a civil dispute or pendency of a civil suit, by itself, is not sufficient to quash criminal proceedings when the allegations also disclose ingredients of criminal offences. Likewise, this Court cannot undertake a mini-trial or determine the genuineness of the disputed power of attorney and other documents while exercising jurisdiction under Section 528 BNSS.

12. No ground for interference in exercise of the inherent jurisdiction of this Court is made out. The present application is, accordingly, dismissed.

13. It is clarified that the observations made herein are confined to the disposal of the present application. The trial court shall independently appreciate the statement of Harpal Singh and other evidence and decide the case in accordance with law, without being influenced by any observation made in this order.

(Madan Pal Singh,J.)

October 6, 2026
pks

Digitally signed by :-
PANKAJ KUMAR SRIVASTAVA
High Court of Judicature at Allahabad