2026:AHC:227593

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 47974 of 2026

Saqib And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Rakesh Kumar, Sunil Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicants, learned Additional Government Advocate (A.G.A.) for the State, and perused the record.

2. The present application has been filed seeking for quashing of the entire proceedings, arising out of Case Crime No. 111 of 2023, under Sections 419, 420 of the Indian Penal Code and Section 9 of the Uttar Pradesh Public Examinations (Prevention of Unfair Means) Act, 1998, Police Station Campierganj, District Gorakhpur, pending before learned Judicial Magistrate-III, Gorakhpur as well as to quash the charge sheet dated 29.03.2023 and also to quash the summoning order dated 05.09.2023 passed in the aforesaid case.

3. The learned counsel for the applicant submitted that, according to the prosecution case, a First Information Report was lodged on 27.02.2023 against the applicants and other co-accused persons alleging fraud and forgery in connection with a high school examination. Subsequently, the investigating police conducted an investigation and filed a charge sheet on 29.03.2023 against the applicants under Sections 419, 420 IPC and Section 9 of the U.P. Public Examinations (Prevention of Unfair Means) Act, 1998, pursuant to which the impugned cognizance order was passed. It is a relevant fact that the applicants is a student and the allegations leveled against him are based on false facts, as the school management maliciously implicated the applicantd along with other co-accused persons, whereas no offence have been committed by the applicants. It is

noteworthy that the examination in question is regularly monitored via CCTV cameras, but no thorough investigation of this CCTV footage was conducted in the present case, nor was it made a part of the case diary. It is a material consideration that this matter relates to a minor offence/act from which the applicant derived no benefit. This reflects that the prosecution story has not been proved beyond reasonable doubt. It was further urged that the applicants are a student with no prior criminal history, nor has he ever been convicted previously. The current pending criminal proceeding is severely hampering the applicant's bright future and academic career. Thus, the entire criminal proceeding running against the applicants are an abuse of the process of law and deserves to be quashed in accordance with settled legal principles. In support of his arguments, the learned counsel drew the attention of this Court to the judgment of the Hon'ble Supreme Court in Karan Talwar v. State of Tamil Nadu, 2024 SCC OnLine SC 3803, wherein it is well-established that statements made before the police are not admissible, and also relied upon the principles laid down in R.P. Kapur v. State of Punjab, AIR 1960 SC 866. Hence, it is prayed that the entire criminal proceeding against the applicants be quashed.

4. The learned Additional Government Advocate opposed the aforesaid arguments, but could not successfully rebut the contention that although the examination center was regularly monitored via CCTV cameras, no thorough investigation of the said CCTV footage was conducted during the course of investigation, nor was it made a part of the case diary.

5. This Court has considered the arguments advanced by both parties and duly perused the entire record, including the documents, the FIR, the charge sheet, and the cognizance order. It is revealed that the applicants are a young students, vital electronic evidence (such as CCTV footage) was overlooked during the investigation, and there appears to be a total lack of solid, substantive evidence supporting the allegations. In such circumstances, dragging the applicants through the rigors of a criminal trial and placing his future in uncertainty would not serve the ends of justice.

6. The Three Judges Bench of the Apex Court in the case of **R.P. Kapur**

Vs. State of Punjab AIR 1960 SC 866 after considering Section 561A of Criminal Procedure Code, 1898 gave following categories on the basis of which proceedings pending against an accused can be quashed:-

> *"(i) Where it manifestly appears that there is a legal bar against the institution or continuance of proceedings for example want of sanction,*
>
> *(ii) Where allegation in the first information report or complaint if taken at its face value and accepted in their entirety do not constitute the offence alleged,*
>
> *(iii) Where the allegations constituted an offence but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charges."*

7. The Apex Court in its celebrated judgement **State of Haryana and others Vs. Bhajan Lal** and other 1992 Supp (1) SCC 335 in detail considered the scope of this Court under Section 482 Cr.P.C. and/ or Articles of 226 of Constitution of India and identified the following categories in which proceedings can be quashed and observed in paragraph 102 as:-

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) Where the allegations made in the first information report or the complaint, even if they are 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.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a*

Magistrate within the purview of Section 155 (2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. The Three Judges Bench of the Apex Court in the case of **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others** AIR (2021) SC 1918 after discussing the power of this Court under Section 482 Cr.P.C. categorically held that if case fell either of the categories mentioned in the case of R.P. Kapoor (supra) and Bhajan Lal (supra) then proceedings pending against an accused can be quashed.

9. From the aforesaid well-settled judicial pronouncements, it is clear that if criminal proceedings appear to be prima facie malicious, baseless, or an abuse of the process of law, the High Court can exercise its inherent powers under Section 528 of the BNSS (formerly Section 482 of the CrPC) to quash such proceedings. Accordingly, the present application deserves to be allowed.

10. In view of the above, the entire proceedings, arising out of Case Crime No. 111 of 2023, under Sections 419, 420 of the Indian Penal Code and Section 9 of the Uttar Pradesh Public Examinations (Prevention of Unfair Means) Act, 1998, Police Station Campierganj, District Gorakhpur, pending before learned Judicial Magistrate-III, Gorakhpur as well as charge sheet dated 29.03.2023 and also the summoning order dated 05.09.2023 passed in the aforesaid case are hereby quashed as against the applicants.

11. Accordingly, the instant application is **allowed**.

(Dr. Gautam Chowdhary,J.)

November 2, 2026
CP.sahani

Digitally signed by :-
CHANDRA PRAKASH SAHANI
High Court of Judicature at Allahabad