2026:AHC:230533

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 48954 of 2026

Ajay @ Anuj Yadav And 5 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Manoj Kumar Srivastava, Pranvesh
Counsel for Opposite Party(s)	:	G.A., Saurabh Kesarwani

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for the applicants and learned AGA for the State as well as Shri Saurabh Kesarwani, learned counsel for opposite party no.2.

2. The present application under section 528 BNSS has been filed by the applicants for quashing of entire proceedings of Case No. 12270 of 2026 (State of U.P. Vs. Ajay @ Anuj Yadav and others), arising out of Case Crime No.618 of 2025, under sections 318(4), 308(2), 324(4), 115(2), 351(2) and 352 B.N.S. at Police Station Shikohabad, District Firozabad, pending before learned Additional Chief Judicial Magistrate, Shikohabad, Firozabad as well as chargesheet dated 19.10.2025 and cognizance/summoning order dated 28.03.2026 passed in the said case.

3. Brief facts of the case are that opposite party no.2 lodged an FIR on 09.09.2025, registered as Case Crime No.618 of 2025, alleging that the applicants demanded Rs.1,500/- from him for handing over his marksheet and degree and also assaulted and abused him. After investigation, the police submitted a chargesheet against all the applicants on 19.10.2025, whereupon learned court concerned took cognizance of offences and summoned the applicants vide impugned order dated 28.03.2026. It further appears that during investigation, the applicants approached this Court by way of filing Criminal Misc. Writ Petition No.21319 of 2025 (Ajay @ Anuj Kumar and others Vs. State of U.P. and 5 Others), in the said proceedings, opposite party no.2 preferred a short counter affidavit stating that the FIR had not been lodged by him. The Division Bench of this Court, vide order dated 22.09.2025, granted interim protection to the applicants and directed

opposite party no.2 to record his statement before the learned Magistrate concerned.

4. In compliance with the said order, opposite party no.2 appeared before learned Magistrate concerned on 06.10.2025 and recorded his statement, wherein he stated that he had given information to the police at the instigation of a crowd. He specifically denied that the applicants had demanded any money from him or that any altercation had taken place between the parties. He further stated that he had already received his marksheet and did not wish to pursue the matter.

5. Learned counsel for applicants submits that the applicants have been falsely implicated in the present case and that the allegations made in the FIR are not supported by the subsequent statement of opposite party no.2 recorded before learned Magistrate concerned. It is further submitted that opposite party no.2 has categorically denied the alleged demand of money, assault and altercation and has also expressed his unwillingness to pursue the proceedings. Learned counsel further contends that the very foundation of the prosecution case has disappeared in view of the statement of opposite party no.2, who is the informant and the alleged victim, therefore, continuation of the criminal proceedings, despite the aforesaid circumstances, would serve no useful purpose and would amount to an abuse of the process of the court.

6. Learned counsel for opposite party no.2 does not dispute the fact that opposite party no.2, in his statement recorded before the learned Magistrate concerned on dated 06.10.2025, denied the allegations of demand of money and altercation and stated that he had already received his marksheet and did not wish to pursue the matter. Although, learned AGA has opposed the application but he could not dispute the aforesaid factual position emerging from the statement of opposite party no.2 recorded before the learned Magistrate concerned.

7. Having considered the submissions advanced by learned counsel for the parties and upon perusal of the material available on record, it appears that the prosecution case primarily rests upon the allegations made by opposite party no.2 in the FIR, however, in his subsequent statement recorded before the learned Magistrate, opposite party no.2 has specifically denied the alleged demand of money as well as the occurrence of any altercation

between the parties. It is also evident that opposite party no.2 has stated that he had already received his marksheet and does not wish to pursue the matter. The aforesaid statement, coupled with the fact that opposite party no.2 has not disputed the applicants' submissions, materially affects the very foundation of the prosecution case.

8. In such circumstances, the possibility of conviction of the applicants appears remote, and continuation of the criminal proceedings would not serve any meaningful purpose. The allegations, in the light of the subsequent statement of opposite party no.2, do not justify subjecting the applicants to the ordeal of a criminal trial.

9. The Hon'ble Supreme Court in the case of **State of Haryana Vs. Bhajan Lal (1992 Supp (1) SCC 335)** has held that where the allegations made in the FIR or evidence collected during investigation do not disclose the commission of any offence against the accused, the criminal proceedings are liable to be quashed to prevent abuse of process of Court. The relevant paragraphs of the said judgment are being quoted hereinbelow:-

> *'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 Act concerned (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 Act concerned, 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.'

10. The present case falls squarely in category (3) as set out in **Bhajan Lal (supra)** and as such, permitting the criminal process to go on against the applicants herein in such a situation would, therefore, result in clear and patent injustice. This is a fit case for exercising its inherent power under Section 528 BNSS to quash entire proceedings.

11. In view of the aforementioned facts and circumstances as well as in light of said decisions of Hon'ble the Apex Court, chargesheet dated 19.10.2025 and cognizance/summoning order dated 28.03.2026 as well as entire proceedings of Case No. 12270 of 2026 (State of U.P. Vs. Ajay @ Anuj Yadav and others), arising out of Case Crime No.618 of 2025, under sections 318(4), 308(2), 324(4), 115(2), 351(2) and 352 B.N.S. at Police Station Shikohabad, District Firozabad, pending before learned Additional Chief Judicial Magistrate, Shikohabad, Firozabad, are hereby quashed qua applicants herein.

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

November 4, 2026
Vivek Kr.

(Saurabh Srivastava,J.)

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