2026:AHC:232113

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 49566 of 2026

Vikash Singh And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Alok Chandra, Karunesh Pratap Singh
Counsel for Opposite Party(s) : G.A.

Court No. - 73

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. The present application has been filed seeking for quashing of the entire proceedings Sessions Trial No. 525 of 2026 (State Vs. Vikash Singh and others), arising out of Case Crime No. 232 of 2024, under Sections 310(2), 311, 317(3) BNS and Section 3/25 Arms Act, Police Station Balua, District Chandauli, pending before learned Sessions Judge, Chandauli as well as to quash the charge sheet dated 16.02.2025 and also to quash the cognizance/summoning order dated 19.02.2025 passed in the aforesaid case.

2. Heard the learned counsel for the applicants and the learned Additional Government Advocate (AGA) for the State at length, and perused the record in its entirety.

3. At the threshold of the proceedings, a supplementary affidavit was filed on behalf of the learned counsel for the applicants, which was duly taken on record.

4. Learned counsel for the applicants submitted that a First Information Report was lodged on 22.11.2024 by the first informant at Police Station Balua, District Chandauli under Sections 310(2) and 311 BNS in respect of an alleged incident dated 21.11.2024 against 4 named persons and 1 unknown person (including the applicants), alleging that while the informant was returning after some work from Azamgarh, near Daulatpur canal, two Fortuner vehicles intercepted him, and 6–7 persons emerged, assaulting him with iron rods and

sticks, resulting in injuries, and also opened fire upon him. It was further alleged that they looted his licensed pistol and a handbag containing some cartridges, documents, and cash amounting to Rs. 5 Lakhs. The informant also alleged that he recorded a video of the Fortuner vehicles, wherein the black Fortuner had no registration number, while the white Fortuner bore the registration number 8888, and that the said persons are residents of Gram Sabha Sarai and Balua. However, it is highly relevant to note that the alleged incident is said to have occurred on 21.11.2024 at around 08:43 PM, and the medical examination of the informant was conducted on the same day at 11:44 PM (i.e., within 3 hours); surprisingly, however, the duration of injuries was reported to be approximately 1 day old, which clearly demonstrates that the case was instituted by the informant on false and frivolous grounds. As per the medical/injury report of the informant, he sustained 6 injuries, out of which three were simple in nature and one was a fracture on the fourth finger of the right hand. During the course of investigation, statements of eyewitnesses were recorded by the Investigating Officer; while they partially supported the version regarding the assault, regarding the alleged loot, they stated that the informant had merely told them that the accused persons had snatched his pistol, bag, documents, and Rs.5 Lakhs, implying that no such incident had actually taken place. After taking the applicants and other co-accused on police custody remand, after a lapse of more than 1.5 (one and a half) months, a false and frivolous recovery of country-made pistols (tamancha) was shown on 03.01.2025 from the joint possession of the arrested persons including the applicants. It is pertinent to mention here that neither any cash nor any incriminating article was recovered from the possession or at the pointing out of the applicants or any other arrested accused. The confessional statements of the applicants and other co-accused were also recorded by the police, which, however, hold no legal significance or relevance under the provisions of Section 23 of the Indian Evidence Act. It is noteworthy that while the specific case of the informant is that the incident occurred on 21.11.2024 at around 08:43 PM, the medical report reflects that the injuries were found to be one day old, rendering the

entire prosecution story surrounded by suspicious circumstances. It is highly astonishing that according to the FIR, the informant was well-acquainted with the applicants, who allegedly assaulted and looted him without concealing their faces or identities. In reality, no such evidence exists against the applicants to establish that they were in any manner involved in the alleged loot. Without any sufficient evidence, the Investigating Officer submitted a charge-sheet against the applicants and others on 16.02.2025 under Sections 310(2), 311, 317(3) BNS and Section 3/25 Arms Act, upon which the Chief Judicial Magistrate, Chandauli mechanically took cognizance on 19.02.2025. Therefore, the impugned order is not in accordance with law and is liable to be quashed.

5. Per contra, the learned Additional Government Advocate vehemently opposed the arguments advanced by the applicants' counsel; however, he could not successfully rebut the factual aspect regarding the total absence of any direct evidence against the applicants in this matter.

6. In light of the submissions made by the learned counsel for both parties and upon a meticulous perusal of the record and the evidence available therein, it is clearly discernible that in the present case, the medical report (the time-duration of injuries not matching the time of the incident), the complete non-recovery of any looted property, and the total lack of substantive evidence clearly indicate that this matter is merely an attempt to give a criminal color to a private dispute or personal animosity for the purpose of harassment. Despite the arguments of the learned AGA, the glaring discrepancies available on record cannot be ignored at this stage. Consequently, allowing the proceedings of this case to continue would be contrary to the interest of justice and would constitute an absolute abuse of the process of the court. It is relevant to note the principles laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal (1992 Supp. (1) SCC 335) and other consistent pronouncements, wherein it has been held that if the prosecution story prima facie appears to be absurd, contradictory, suspicious, or malafide, and is based on weak confessional statements, and the documents and evidence on record

fail to make out a solid foundation for the commission of a cognizable offence, it is the legal obligation of the court to quash such proceedings to prevent the abuse of the process of law. Therefore, this application is fit to be accepted at the threshold stage.

7. Accordingly, on the basis of the aforesaid discussion, it is evident that the chargesheet submitted against the applicants and the consequential cognizance order suffer from an absence of essential ingredients of a criminal offense. Therefore, continuation of the proceedings of this case would be against the ends of justice. Hence, the instant application deserves to be allowed.

8. Consequently, in view of the totality of facts, legal aspects, arguments of both sides, and surrounding circumstances, the application filed by the applicants under Section 528 B.N.S.S. is hereby allowed.

9. In view of the above, the entire proceedings of Sessions Trial No. 525 of 2026 (State Vs. Vikash Singh and others), arising out of Case Crime No. 232 of 2024, under Sections 310(2), 311, 317(3) BNS and Section 3/25 Arms Act, Police Station Balua, District Chandauli, pending before learned Sessions Judge, Chandauli as well as the charge sheet dated 16.02.2025 and also cognizance/ summoning order dated 19.02.2025 passed in the aforesaid case are hereby quashed as against the applicants.

10. The office is directed to communicate a copy of this order to the court concerned for necessary compliance.

(Dr. Gautam Chowdhary,J.)

November 5, 2026
CP.sahani

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