



2026:AHC:157227-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. WRIT PETITION No. - 3339 of 2026

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashish Kumar Chaurasiya, S.M.Faraz I. Kazmi
Counsel for Respondent(s)	: G.A., Kapil Tyagi

Court No. - 46

HON'BLE RAJEEV MISRA, J.
HON'BLE DR. AJAY KUMAR-II, J.

1. Heard Mr. S.M.Faraz I. Kazmi, the learned counsel for petitioners, the learned A.G.A. for State-respondents 1, 2 & 3 and Mr. Kapil Tyagi, the learned counsel representing first informant-respondent-4.

2. Perused the record.

3. Petitioners- And 2 Others have approached this Court by means of present criminal misc. writ petition challenging the impugned FIR dated 17.01.2026 lodged by first informant-respondent-4 and registered as Case Crime No. 0018 of 2026, under Sections 318(1), 115(2), 352, 308(6), 329(1), 324(4), 351(2), 221 of B.N.S., Police Station-Knowledge Park Greater Noida, District-Gautambudh Nagar.

4. At the very outset, the learned counsel representing first informant respondent-4 pointed out that after completion of statutory investigation of aforementioned case crime number in terms of Chapter XIII of BNSS. Investigating Officer has already forwarded the charge sheet/police report in terms of Section 193(3) of BNSS. However, no cognizance has been taken upon same by the jurisdictional magistrate.

2. Perused the record.

3. Petitioners- And 2 Others have approached this Court by means of present Criminal Misc. Writ Petition challenging the impugned FIR dated 17.01.2026 lodged by first informant-respondent- 4, and registered as Case Crime No. 0018 of 2026, under Sections 318(1), 115(2), 352, 308(6), 329(1), 324(4), 351(2), 221 BNS Police Station- Knowledge Park, Greater Noida, Gautambudh Nagar.

4. Learned counsel for petitioners in challenge to the impugned F.I.R. submits that the impugned F.I.R. is not only malicious but also an abuse of the process of Court. According to the learned counsel for petitioners, petitioner no. 1 is the wife of first informant-respondent no. 4 while petitioner is a Doctor by profession and is working as a Radiologist at Bareilly and the first-informant respondent no. 4 is working on the post of Judicial Magistrate.

5. He therefore, submits that considering the status of the parties, there are every chances of the matter being settled amicably. He therefore, submits that that in view of the peculiar circumstances of the case, interest of justice shall better be served in case the matter is referred to Mediation.

6. It is also contended by the learned counsel for the petitioners that since the dispute between the parties is purely private and matrimonial in nature, therefore, there are every chances of the same being resolved amicably.

7. Per contra, the learned A.G.A. representing State/respondents 1 to 3 and Mr. Kapil Tyagi, the learned counsel representing first informant-respondent- 4 do not oppose the fair submissions urged the learned counsel for petitioners.

8. In view of above, matter is accordingly referred to Mediation and Conciliation Center, High Court Allahabad.

9. The parties shall appear before Mediation and Conciliation Center, High Court Allahabad on 25.04.2026. The Mediation and Conciliation Center, High Court Allahabad shall endeavour to complete the mediation proceedings within a period of three months from today and thereafter submits its report.

10. Petitioners shall deposit a sum of Rs. 25,000/- with the Mediation and Conciliation Center, High Court Allahabad by means of a Bank Draft drawn

12. In case the first informant/respondent-4 appears in the Mediation proceedings then a sum of Rs. 20,000/- out of the aforesaid deposit shall be paid to first informant/respondent-4. The balance amount shall be retained towards the cost of mediation.

13. The Mediation and Conciliation Center, High Court Allahabad shall make an endeavour to conclude the mediation proceedings within a period of three months from today and thereafter submits its report to this Court.

14. Notice on behalf of State/respondents 1 to 3 has been accepted by the learned A.G.A.

15. Mr. Kapil Tyagi, Advocate has put in appearance on behalf of first informant-respondent- 4.

16. All the respondents may file their respective counter affidavits within six weeks. Petitioners will have two weeks thereafter to file their respective rejoinder affidavits.

17. Put up this writ petition for admission as fresh on 16.07.2026 before appropriate Bench.

18. Considering the facts and circumstances of the case and coupled with fact that the matter has been referred to Mediation, therefore, as an interim measure, it is hereby provided that petitioners shall not be arrested in impugned FIR dated 17.01.2026 lodged by first informant-respondent- 4, Rahul Anand and registered as Case Crime No. 0018 of 2026, under Sections 318(1), 115(2), 352, 308(6), 329(1), 324(4), 351(2), 221 BNS Police Station- Knowledge Park, Greater Noida, Gautambudh Nagar, till the next date fixed.

19. It is made clear that the investigation of the aforesaid case shall go on.

20. In case of default in payment of aforesaid deposit as directed above, the interim protection granted to the petitioners shall stand automatically vacated. The Investigating Officer shall be free to arrest the petitioners. "

6. Pursuant to above order, parties appeared before the Mediation and Conciliation Centre, High Court Allahabad. However, they could not arrive at any settlement. Accordingly, the Mediation and Conciliation Centre, High

present writ petition submits that petitioner-1- Sushma Rani is the legally wedded wife of first informant respondent-4. He therefore, submits that dispute between the parties is basically a matrimonial dispute, which has now been dragged into criminal litigation. Irrespective of above, in view of the facts and circumstances of this case as have now crystallized on record the criminal prosecution of petitioners pursuant to the impugned FIR cannot be sustained.

8. In furtherance of aforesaid submission, the learned counsel for petitioners invited the attention of Court to the impugned FIR itself certified copy of which is on record at page 40 of the paper book. With reference to the day, date and time of occurrence column of FIR, learned counsel for petitioners submits that no details are mentioned in the aforesaid column. However, from the body of FIR it can be gathered that the incident giving rise to present criminal proceedings are alleged to have occurred from 26.05.2021 to 18.11.2025. Taking the last incident which is alleged to have occurred on 18.11.2025 as the beginning period of limitation yet the impugned FIR is delayed by two months. However, no satisfactory explanation has come forward from the first informant respondent-4 in the impugned FIR itself explaining the delay/latches in lodging the FIR. He, therefore, submits that since there is gross delay in lodging the FIR but the said delay having not been sufficiently explained, therefore, criminal prosecution of petitioners on the basis of such a belated FIR cannot be sustained.

9. To buttress his submission, the learned counsel for petitioners has referred to the judgments of Supreme Court in (i). **P. Ramchandra Rao Vs. State of Karnataka, (2002) 4 SCC 578**, (ii). **P. Rajagopal and others Vs. The State of Tamil Nadu, AIR 2019 SC 2866 (paragraph 8)**, (iii). **Hasmukhlal D. Vora and Another Vs. The State of Tamil Nadu, 2022 SCC OnLine 1732**, (iv). **Sekaran Vs. State of Tamil Nadu, (2024) 2 SCC 176**, (v) **Shivendra Pratap Singh Thakur @ Banti Vs. State of Chhattisgarh and Others, 2024 SCC OnLine SC 938** and (vi) **Rajesh Patel Vs. State of Jharkhand, (2013) 3 SCC 791**, wherein Apex Court has

Shivendra Pratap Singh Thakur (Supra), wherein, Apex Court quashed criminal prosecution of accused therein on the ground that there is an unexplained delay of 39 days in lodging the FIR.

11. Reference was also made to another judgment of Apex Court in the case of **Rajesh Patel Vs. State of Jharkhand, (2013) 3 SCC 791**, wherein, Apex Court quashed conviction of accused therein on the ground that there is an unexplained delay of 11 days in lodging the FIR.

12. Learned counsel for petitioners has then submitted that first informant respondent-4 had filed a suit for divorce in terms of Section 13 of Hindu Marriage Act which was registered as Divorce Petition No. 1297 of 2024 (Rahul Anand Vs. Sushma Rani). The aforesaid suit was decreed by the family Court vide judgment and decree dated 08.09.2025. However, the said fact has not been mentioned in the FIR. It is thus contended by the learned counsel for petitioners that criminal prosecution of petitioners was set in motion by first informant respondent-4 by concealing material facts. As such, the first informant respondent-4 is not an honest litigant. He has rather misused the process of Court. On the edifice of above submissions, the learned counsel for petitioners thus submits that criminal prosecution of petitioners pursuant to the impugned FIR is not only malicious but also an abuse of the process of Court. Consequently, the impugned FIR is liable to be quashed by this Court.

13. Per contra, the learned A.G.A. for State respondents 1, 2, 3 and the learned counsel representing first informant-respondent-4 have vehemently opposed the present writ petition. They submit that since the impugned FIR discloses commission of a cognizable offence, therefore, no interference is warranted by this Court in present writ petition. Referring to the judgments of Supreme Court in **State of Telangana Vs. Habib Abdullah Jellani reported in (2017) 2 SCC 779** and **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others reported in (2021) SCC Online SC 315**, they submit that at this stage, the Court is only required to see as to whether a prima facie is made out against accused or not. Since upon perusal of

divorce decree granted by competent Court on 08.09.2025 was not disclosed in the FIR. However, the learned A.G.A. and the learned counsel representing first informant reiterated their previous submissions as noted above.

15. Be that as it may, having heard, the learned counsel for petitioners, the learned A.G.A. for State-respondents 1, 2 & 3, the learned counsel representing first informant-respondent-4 and upon perusal of record, we find that it is clearly borne out from record that the impugned FIR has been lodged with delay. However, delay in lodging the FIR has not been sufficiently explained. Since delay in lodging the FIR has not been sufficiently explained, therefore, the observations made by Apex Court in aforementioned judgments are clearly attracted in the present case.

16. Apart from above, this Court further finds that first informant respondent-4 is the husband of petitioner-1. A matrimonial dispute occurred between the parties as it reflected from the allegations made in the FIR. It is the specific case of first informant respondent-4 that the wife is not residing with him since 15.12.2023.

17. We also find from perusal of impugned FIR that first informant has alleged that wife has refused to grant divorce until she has been sufficiently paid. It is also the specific case of first informant respondent-4 that money was demanded from the side of wife and until and unless the said money which is alleged to be one crore is paid, no cooperation shall be extended by the wife i.e. petitioner-1 in the divorce proceedings.

18. Above statements of fact occurring in the FIR which is also the admitted case of the first informant respondent-4 is contrary to the record inasmuch as prior to the lodging of the FIR itself divorce decree had already been passed by the competent Court i.e. on 08.09.2025 whereas, the FIR was lodged on 17.01.2026.

19. In view of above, we are of the view that impugned criminal proceedings

to the impugned FIR cannot be sustained in law and fact.

21. As a result, the present writ petition succeeds and is liable to be allowed.

22. It is, accordingly, **allowed**.

23. The impugned FIR 17.01.2026 lodged by first informant-respondent-4 Rahul Anand and registered as Case Crime No. 0018 of 2026, under Sections 318(1), 115(2), 352, 308(6), 329(1), 324(4), 351(2), 221 of B.N.S., Police Station-Knowledge Park Greater Noida, District-Gautambudh Nagar) is hereby quashed.

24. In the facts and circumstances of the case, the cost is made easy.

July 27, 2026
Imtiyaz

(Dr. Ajay Kumar-II,J.) (Rajeev Misra,J.)