



2026:AHC:181553-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. WRIT PETITION No. - 20106 of 2026

Ramesh Upadhyay

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Akhilesh Kumar Dwivedi, Alok Kumar Dwivedi, Sneha Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 48

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE TARUN SAXENA, J.

1. The instant writ petition has been filed by the petitioner with the following main reliefs:-

"1. Issue a writ, order or direction in the nature of Mandamus commanding the respondent authorities to register a First Information Report on the basis of the complaint submitted by the petitioner against respondent no.4 and to ensure fair investigation in accordance with law.

II. Issue such other and further writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case; so that justice may be done."

2. Learned counsel appearing on behalf of petitioner submitted that on 01.10.2025 at about 3.30 PM, when he was sitting in Chamber No.46, Advocate Building, Collectorate, Varanasi, certain persons discussed and showed a video containing statements made by respondent no.4 against persons belonging to a particular community. It is further submitted that such comments made by respondent no.4 caused grave mental agony, humiliation and insult to the petitioner and other persons associated with the said community. It is vehemently submitted that the alleged statements and videos were publicly circulated on social media platforms including YouTube, therefore, it is widely accessible to the public at large. It is also alleged that respondent no.4 has made objectionable remarks against revered religious personalities including Shankaracharyas, thereby hurting the religious sentiments of several followers.

3. Learned counsel appearing on behalf of petitioner submitted that a complaint was made by the petitioner through respondent no.2 i.e. Commissioner of Police, Varanasi on 08.10.2025 requesting for registration of F.I.R. against respondent no.4 under appropriate penal provisions.

4. Learned counsel for petitioner submitted that despite disclosure of cognizable offence in the complaint, no F.I.R. has been registered by the respondent authorities, yet.

5. It is submitted that non-registering of F.I.R. on the said complaint by the police authorities is a clear violation of principles laid down by the Supreme Court in the case of **Lalita Kumari Vs. State of U.P. and others** reported in **AIR 2014 SC (Criminal) 66**. It is submitted that since the F.I.R. was not lodged by the police authorities in spite of all efforts, the petitioner has left with no option except to approach this Court by way of filing this writ petition for issuance of order, direction or writ in the nature of mandamus to the concerned authorities for registration of the F.I.R.

6. *Per contra*, learned A.G.A. appearing on behalf of the State vehemently opposed the instant writ petition and submitted that the instant writ petition is nothing but gross misuse of process of law. It is submitted that the instant writ petition has been filed by the petitioner only for the purpose of escalate the issue. It is also submitted that the petitioner never approached the concerned police station for lodging the F.I.R. as submitted by learned counsel for the petitioner. Learned A.G.A. further submitted that the petitioner has appended Annexure No.1, which is the letter written to the Commissioner of Police, Varanasi and copy to the Chief Minister of Uttar Pradesh for issuance of direction to the Police Station Cantt. Varanasi to lodge the F.I.R. The State has raised specific objection during the arguments that the above-said letter dated 08.10.2025 was never received by any police official and has not been authenticated through postal or police record. Learned A.G.A. also submitted that it is settled law that if a person has a grievance that his F.I.R. has not been registered by the police, then the remedy of the aggrieved person is not to approach the High Court under Article 226 of the Constitution of India, but to approach the concerned Magistrate under Section 175(3) of B.N.S.S., in the instant case, the petitioner has filed the writ petition directly before this Court without approaching the concerned S.H.O. or concerned Magistrate as mandated by the Statute i.e. Bhartiya Nagrik Suraksha Sanhita, 2023. The instant writ

petition is therefore, devoid by merit and the same is liable to be rejected.

7. Heard Dr. Akhilesh Kumar Dewedi, learned counsel appearing on behalf of petitioner, Mr. S.K. Ojha, learned A.G.A. appearing on behalf of the State, perused the contents made in the writ petition and documents on record.

8. In view of the rival submissions advanced by the respective parties, we deem it appropriate in the first instance to consider the facts of the case in hand. In the instant writ petition it has been contended that the petitioner is a practicing Advocate and belongs to a particular community i.e. "Upadhyay" and generally some statements given by respondent no.4 i.e. Jagadguru Rambhadracharya, which hurts the sentiments of the petitioner and other members of the community. He has given one letter to the Commissioner of Police, Varanasi which is appended as Annexure No.1 of the paper book and on that letter, the police has not acted upon and not lodged the F.I.R. against respondent no.4 i.e. Jagadguru Rambhadracharya. Aggrieved by the alleged inaction on the part of the police authorities, the Advocate approached this Court seeking a direction for registration of F.I.R. against respondent no.4.

9. We have perused the letter/complaint dated 08.10.2025, which is appended as Annexure No.1 with the paper book, the relevant portion of the said letter is reproduced for ready reference:-

"संत श्री राम भद्राचार्य द्वारा स्वयं चित्रकूट में एक तुलसी पीठ वर्ष 1987 से बनाकर पीठाधीश्वर बने हैं। उक्त पीठ पूर्व से नहीं था। जिसके चलते तुलसी पीठ परम्परागत पीठ नहीं हैं। उपाध्याय लोगों के आधुनिक परिपेक्ष्य में देखा जाय तो हम प्रार्थी रमेश उपाध्याय के पिता आजादी के आन्दोलन में बीरता से लड़ते हुए अंग्रेज थानाध्यक्ष का सिर डण्डे से मारकर फोड़ दिये थे। उस समय के गाँव के जमीनदार भांजा मानते हुए बचा लिए थे। अंग्रेजों के विरुद्ध बहुतेरे बार लड़ने के बाद भी हम प्रार्थी के पिता को अभियुक्त बनाने में अंग्रेज बिफल रहे। हम प्रार्थी के पिता जी अंग्रेजों के मारने-पीटने के बाद कैमुर के पहाड़ी में भाग जाते थे। जिसके चलते अंग्रेज पकड़ नहीं पाए। हम प्रार्थी के परम गुरुदेव ब्रम्हलीन ज्योतिष एवं द्वारका पीठाधीश्वर जगद्गुरु शंकराचार्य स्वामी श्री स्वरूपानन्द सरस्वती जी महाराज का भी जन्म उपाध्याय परिवार में हुआ था। संघ के पं० दीन दयाल उपाध्याय जी जो एकात्म मानववाद का दर्शन को प्रचारित प्रसारित किये वे भी उपाध्याय परिवार से रहे हैं व पं० केदार नाथ उपाध्याय नेपाल के चीफ जस्टिस थे। माननीय तरुण चटोपाध्याय, माननीय सर्वोच्च न्यायालय में जस्टिस रहे व जस्टिस श्री देवेन्द्र उपाध्याय जी माननीय उच्च न्यायालय दिल्ली में व माननीय उच्च न्यायालय, बाम्बे व माननीय उच्च न्यायालय, इलाहाबाद में मुख्य न्यायाधीश रहे हैं। माननीय श्री सुबास उपाध्याय माननीय उच्च न्यायालय, उत्तराखण्ड, में न्यायमूर्ति व जस्टिस श्री गंगोपाध्याय, माननीय उच्च न्यायालय कलकता हाई कोर्ट में जस्टिस रहे

हैं। आज भी हम प्रार्थी के मित्र श्री अश्वनी उपाध्याय माननीय सर्वोच्च न्यायलय में पीआईएल देश हित में दाखिल करते चले आ रहे हैं। इस प्रकार हजारों उपाध्याय लोग देश में आज भी उच्च पदस्थ पदों पर विराजमान हैं। उपाध्याय के विषय में किसी देव, उपनिषद्, पुराण अथवा सनातन धर्म ग्रंथ में ट्यूशन लेकर पढ़ाने की बातों का उल्लेख नहीं मिलता है। बिना किसी आधार के हम उपाध्याय परिवार के माताओं, बहनों, भाईयों, पूर्वजों को नीच / अधम कहने से हम उपाध्याय लोगों के इतिहास व वर्तमान व आने वाली पीढ़ी को गाली देना सनातन धर्म का अपमान है। साथ ही साथ हम उपाध्याय परिवार की बहू बेटियों ब्राम्हणों के अन्य टाईटिल शुक्ला, पाण्डेय तिवारी आदि में भी है। उन्हें भी अपमानित करने का कार्य श्री राम भद्राचार्य ने किया है। संत श्री राम भद्राचार्य हम उपाध्याय परिवार का इतिहास में एक काला अध्याय अपने विचार से लिखे है। इनके बक्तव्य से मातृ पक्ष और पितृ पक्ष का दोनों का अपमान हुआ है। भारत में रहने वाली सभी माताओं व सभी के पूर्वजों को गाली देना सनातन धर्म के अपमान के साथ साथ जो हमारे पूर्वजों जिनका स्वर्गवास हो गया, उनके आत्मा को भी गाली देने का कार्य श्री राम भद्राचार्य ने किया है। हम प्रार्थी के पितर जो भगवान स्वरूप होते हैं। उन्हें भी अभियुक्त श्री राम भद्राचार्य ने नीच कह कर किये है। जिसका विडियो बहुतेरे दिनों से समाज में प्रचारित श्री राम भद्राचार्य द्वारा आज तक कराया गया है। जो अभी भी यूट्यूब पर मौजूद हैं। श्री राम भद्राचार्य अपने को माननीय प्रधान मंत्री श्री नरेन्द्र मोदी जी का मित्र कहते हैं। इसलिए हम प्रार्थी के साथ जो लोग मुकदमें के साक्षी होंगे उनकी हत्या भी करवा सकते हैं। साथ ही साथ हम सभी सनातनी हिन्दुओं के पूर्वज भगवान श्री राम भी हैं। उक्त कथन से भगवान राम को भी अपमान किए है। इस प्रकार भगवान विष्णू, भगवान शंकर को अपमानित करने का कार्य अभियुक्त श्री राम भद्राचार्य द्वारा किया गया है। किसी को भी नीच / अधम कहकर अपमानित करने का अधिकार श्री राम भद्राचार्य को करने का नहीं है। हमसबों के टाईटिल पर गाली देना भारत माता को गाली देने के समान हैं। क्योंकि हमसब भारत माता के पुत्र हैं, जो साक्षात धारा-धाम पर गो माता के स्वरूप में विराजमान हैं। हन प्रार्थी के गुरु ज्योतिष पीठाधीश्वर व अन्य तीनों जगद्गुरु शंकराचार्यों श्री पुरी पीठाधीश्वर श्री शारदापीठाधीश्वर व श्री श्रृंगेरी पीठाधीश्वर व पूज्य महाराज श्री प्रेमानन्द जी को भी अपमान जनक शब्दों का प्रयोग संत श्री राम भद्राचार्य द्वारा किया गया। गुरु निंदा नहीं सुना जाता। हम समस्त सनातनी हिन्दुओं ने जगद्गुरु के रूप में चारों पीठों के शंकराचार्यों को स्वीकार किया है। श्री शंकराचार्य पद पर आसीन लोगों को अपमानित करना हम समस्त सनातनी हिन्दुओं को अपमानित करने का कार्य संत राम भद्राचार्य ने किया है। शंकराचार्य को फर्जी कहना अपने को सबसे बड़ा अपने से मान लेना सभी संतों का निंदा करना हम सनातन धर्म का अपमान है। सनातन धर्म के गुरु निन्दा सुनना पाप है। हम प्रार्थी जब यूट्यूब खोलता था, तो श्री राम भद्राचार्य का विडियो देखते ही अनसुना कर आगे बढ़ाने की कोशिश करता है, तबपर भी गुरु निंदा कान में सुनाई पड़ ही जाता है। जो सार्वजनिक तौर पर अपमान है।

हम प्रार्थी व प्रार्थी के पूर्वजों व उपाध्याय परिवार की समाज में मान प्रतिष्ठा है। साथ ही साथ हम प्रार्थी के पूर्वजों को नीच कहने से कम से कम मु० एक अरब रुपये की प्रतिष्ठा वर्तमान में तथा उक्त कथन श्री रामभद्राचार्य का परम्परा से इतिहास बन जाएग, जिसले चलते हम प्रार्थी के आने वाले पीढ़ी को भी अपमानित बराबर महसूस करना पड़ेगा। जिस अपमान की परिकल्पना भविष्य में कम से कम मु० एक खरब रु० से अधिक का अभियुक्त श्री राम भद्राचार्य के बक्तव्य से हुआ है। श्री राम भद्राचार्य अपने को माननीय प्रधान मंत्री जी के मित्र कहते हैं। वे कभी भी

सरकारी तंत्र से हम प्रार्थी के हत्या कराने हेतु अन्य रणनीति भी बनवा सकते हैं अथवा सरकार अथवा अपने शिष्यों से बड़ी घटना का अंजाम दिलवा सकते हैं। जिसके चलते प्रार्थी व प्रार्थी के परिवार की पूर्ण सुरक्षा भारत सरकार व उत्तरप्रदेश सरकार से प्रदान कराया जाना आवश्यक एवं विधि सम्मत हैं। हम प्रार्थी का मुकदमा थाने द्वारा दिनांक 01-10-2025 को नहीं लिखा गया। ऐसे में श्री मान् जी को प्रथम सूचना रिपोर्ट दर्ज कराने हेतु जरिये रजिस्टर्ड डाक भेज रहा है, ताकि प्रार्थी विडियोव अभियुक्त राम भद्राचार्य का विडियो देखकर अपना तथा अपने गुरु का व अपने पूर्वजों का व आने वाली पीढ़ी का प्रतिक्षण अपमान महसूस न कर सके।

प्रार्थना

अतः श्रीमान जी से प्रार्थना है कि माननीय थाना प्रभारी महोदय, कैण्ट, वाराणसी को प्रार्थना पत्र में वर्णित तथ्यों के आधार पर प्रथम सूचना रिपोर्ट दर्ज कराने हेतु आदेशित करने की कृपा करे, ताकि न्याय हो।

दिनांक- 04-10-2025

रमेश उपाध्याय, एड०

प्रतिलिलि- माननीय मुख्यमंत्री महोदय, मा० गृह मंत्री महोदय, भा० सरकार।

पत्राचार पता 47 दी सेंट्रल बार, अधिवक्ता भवन कचहरी, वाराणसी। मोबाईल न० 9415269399"

10. We have perused the contents of the writ petition and material on record, there are no pleadings in the writ petition regarding the receipt of the said letter and no proof of receipt or postal tracking has been furnished by the petitioner.

11. Taking into consideration the discussions made in foregoing paragraphs, the following issue arise for consideration and adjudication by this Court whether the petitioner without following the remedy available under Section 175(3) B.N.S.S. 2023, the present writ petition seeking a direction for registration of F.I.R. is maintainable or not.

12. The power under Article 226 of the Constitution of India to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well. The High Court has the discretion to entertain or not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an efficacious alternate remedy is available to the aggrieved person. Exceptions to the rule of alternate remedy arise where (a) *the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;* (b) *there has been a violation of the principles of natural justice;* (c) *the order or proceedings are wholly without jurisdiction;* or (d) *the vires of a legislation is challenged.*

13. An alternative remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternative remedy is provided by law.

14. This Court is of the considered view that if a person has a grievance that his FIR has not been registered by the police, or that having been registered, a proper investigation is not being done, then the remedy of the aggrieved person is not to approach the High Court under Article 226 of the Constitution, but to approach the Magistrate concerned under Section 156(3) CrPC. [Section 175(3) BNSS].

15. The Supreme Court has time and again emphasized that the Magistrate has very wide powers under Section 156(3) CrPC [Section 175(3) BNSS] to direct registration of an FIR and to ensure a proper investigation, and for this purpose, can even monitor the investigation. This remedy under Section 156(3) CrPC [Section 175(3) BNSS] is not merely an alternative, instead, it is the primary and preferred remedy that must be exhausted before approaching the High Court under Article 226. The Supreme Court in ***Sakiri Vasu v. State of Uttar Pradesh*** reported in **(2008) 2 SCC 409**, has categorically held that if a person has a grievance that his FIR has not been registered by the police, or that having been registered, a proper investigation is not being done, then the remedy of the aggrieved person is not to approach the High Court under Article 226 of the Constitution, but to approach the Magistrate concerned under Section 156(3) CrPC [Section 175(3) BNSS]. The Magistrate, upon being prima facie satisfied, can direct the FIR to be registered, or if it has already been registered, can direct a proper investigation to be conducted, including the power to recommend a change of the investigating officer to ensure a fair and proper investigation. The Supreme Court emphasized that the Magistrate has very wide powers under Section 156(3) CrPC [Section 175(3) BNSS] to direct registration of an FIR and to ensure a proper investigation, and for this purpose, can even monitor the investigation.

16. The Supreme Court has recently reaffirmed this position in ***Sujal Vishwas Attavar v. State of Maharashtra*** reported in **2026 INSC 442**, holding that the extraordinary jurisdiction under Article 226 cannot be used to compel registration of an FIR where efficacious statutory remedies under the BNSS exist and have not been exhausted. The Court emphasized that

grievances about FIR registration must first be pursued through the statutory hierarchy of police superintendent and magistrate before seeking writ relief. Similarly, in various other recent decisions, the Supreme Court has quashed directions issued by High Courts for the registration of FIRs under Article 226 where the complainant had not exhausted the alternative remedies available under the criminal procedure framework. This consistent line of authority underscores the need to curb the growing trend of litigants rushing to the High Court without first availing the statutory remedies, as it not only defeats the purpose of the procedure prescribed under the BNSS/CrPC but also creates a surmounting burden on the High Court, which is meant to exercise its extraordinary jurisdiction in rare and exceptional cases.

17. It is a well-established principle of law that the writ jurisdiction under Article 226 is discretionary and subject to self-imposed restrictions, including the rule of exhaustion of alternative remedies. Where an effective and efficacious alternative remedy is available to the aggrieved person, this Court ought not to entertain a petition under Article 226, unless exceptional circumstances exist, such as a violation of fundamental rights, breach of natural justice, lack of jurisdiction, or where the statutory remedy is illusory or ineffective.

18. In matters relating to the registration of FIRs and investigation, the statutory remedies under Section 173(4) and Section 175(3) BNSS [or Section 154(3) and Section 156(3) CrPC] are not only available but are highly efficacious, as the Magistrate has the power to direct registration, order investigation, and monitor the same. To entertain a writ petition in the first instance, without the petitioner having approached the Magistrate, effectively results in this Court acting as a forum of first instance, thereby completely bypassing the structured statutory scheme, which is impermissible.

19. If even that fails, Section 175(3) BNSS [Section 156(3) CrPC] empowers the jurisdictional Magistrate to direct the registration of an FIR and to ensure a proper investigation, including the power to monitor the investigation. This statutory scheme is not a mere formality, rather it reflects a deliberate legislative design to ensure that grievances are addressed at the appropriate level before resorting to constitutional remedies. To skip this statutory sequence and rush directly to this Court under Article 226 is to undermine the legislative intent and to treat the High Court as a forum of first instance,

which is impermissible.

20. It is well-settled, following the Constitution Bench judgment in ***Lalita Kumari (Supra)***, that registration of an F.I.R. is mandatory under Section 154 CrPC [now Section 173 BNSS] if the information discloses the commission of a cognizable offence, and no preliminary inquiry is permissible in such a situation.

21. The police officer cannot avoid his duty of registering an offence if a cognizable offence is disclosed, and action must be taken against erring officers who fail to register the FIR. However, what *Lalita Kumari (Supra)* does not sanction is the bypassing of the statutory remedies available to an aggrieved person when the police fail to discharge their mandatory duty.

22. The judgment in *Lalita Kumari* was rendered to ensure that the police perform their statutory obligation, not to encourage litigants to approach the High Court directly without first availing the remedies under Section 154(3) and Section 156(3) CrPC [or their BNSS equivalents].

23. It has been observed with considerable concern that there is a growing trend of litigants approaching this Court under Article 226 of the Constitution of India, seeking directions to the police to register a First Information Report, without first exhausting the statutory remedies available under the B.N.S.S.

24. This Court fully appreciates that the right to a fair investigation is part of the right to life and personal liberty under Article 21 of the Constitution of India, sympathy cannot override procedure. The procedure prescribed under the BNSS/CrPC is not a mere technicality. It is a substantive safeguard that ensures that grievances are addressed at the appropriate level, with the Magistrate serving as an independent judicial officer who can direct registration, order investigation, and monitor the same. To allow litigants to bypass this statutory scheme and approach this Court directly would not only undermine the legislative intent but would also encourage a culture of bypassing statutory remedies, which is detrimental to the rule of law. This Court must, therefore, insist that litigants first exhaust the statutory remedies available under Section 173(4) and Section 175(3) BNSS [or Section 154(3) and Section 156(3) CrPC] before approaching this Court under Article 226, unless exceptional circumstances exist which warrant direct intervention.

25. It is also disputed fact that whether the petitioner has ever approached any police authority for lodging the F.I.R. before filing the instant writ petition.

26. Taking into consideration of above-said reasons, plain reading of complaint and letter appended as Annexure No.1, we do not find any cogent reason to invoke the extra-ordinary power under Article 226 of the Constitution of India to issue an order, direction or writ in the nature of mandamus to register the first information report against respondent no.4.

27. Accordingly, the instant writ petition is dismissed as devoid by merit.

28. However, in order to secure the ends of justice, the petitioner has liberty to avail appropriate remedy under the law, if advised.

September 1, 2026

Atul

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)