



2026:AHC:196884

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 9690 of 2025

Faizan And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mansoor Ahmad, Soni Gupta
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Despite service of notice none has appeared on behalf of the opposite party No. 2, even in the revised call.

2. Heard Shri Mansoor Ahmad, learned counsel for the applicants, Shri Rajendra Singh, learned A.G.A. for the State and perused the material brought on record.

3. This application under Section 528 BNSS has been filed with the prayer to quash charge sheet dated 08.05.2020 as well as entire proceeding of Case No. 1576 of 2020 (State Vs. Faizan), arising out of Case Crime No. 82 of 2020, under Sections 188, 269, 307 I.P.C. read with Section 51(b) of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897, Police Station Shahganj, District Jaunpur, pending in the court of learned Additional Chief Judicial Magistrate, Court No. 2, Jaunpur. Further prayer has been made for quashing of cognizance/ summoning order dated 15.12.2020 passed against the applicants in the present case.

4. Brief facts of the case is that the opposite party No. 2, who is the Incharge Inspector of Police Station Shahganj, District Jaunpur lodged a first information report dated 02.04.2020 as Case Crime No. 82 of 2020, under Sections 188, 269, 307 I.P.C. read with Section 51(b) of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897, with the allegation that he received information from the informer that both the applicants had gone to Hazrat Nizamuddin Markaz at Delhi to attend religious gathering and after returning from there they are residing in their houses along with their family members secretly. There is apprehension that they may be infected from corona epidemic, on account of which there is possibility that some other persons may also be infected. On being inquired they accepted that they had gone to Delhi for religious gathering. They were also medically examined and they sent to quarantine centre and F.I.R. has been lodged against them.

5. Learned counsel for the applicants submits that the F.I.R. was lodged with the false and frivolous allegations making apprehension that they were infected with corona virus and there is possibility that some other persons may also be infected from such virus. After lodging of the F.I.R. though the

Investigating Agency after recording statements of the opposite party No. 2 as well as other police personnel as well as the statement of doctor submitted charge sheet against the applicants in perfunctory manner, whereupon the court concerned took cognizance against the applicants in cursory manner and summoned the applicants. Learned counsel further submits that the doctor who medically examined the the applicants and sent them to quarantine centre. The corona test of the applicants became negative. Thus, it has been argued that the present proceeding has been initiated against the applicants with false and frivolous allegations and consequently the same is liable to be quashed along with the entire proceeding going on against the applicants.

6. Learned A.G.A. for the State could not dispute the above facts asserted on behalf of the applicant.

7. Having considered the entire facts and circumstances of the case as well as having heard the submission made on behalf of applicant and after perusing the entire material available on record, it appears that the F.I.R. was lodged with apprehension that applicants may be infected with corona virus and there is apprehension that some other persons may also be infected from such virus due to the act of applicants, whereas, their test became negative. Thus, it is crystal clear that the applicants have been falsely implicated in the case with false and frivolous allegations due to ulterior motive and malafide intently and only on the basis of presumption and assumption. If the present proceedings are allowed to go on, it will result in the abuse of process of court as well as process of law and no prosecution could lie against the applicants in such circumstances.

8. At this juncture, this Court has an occasion to go into the guidelines of the Apex Court propounded in the case of **State of Haryana Vs. Ch. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426**, in which the Apex Court had elaborately considered the scope and ambit of Section 482 Cr.P.C./ Article 226 of the Constitution in the context of quashing the criminal proceedings. In paragraph 102, this court enumerated seven categories of cases where power can be exercised under Article 226/ Section 482 Cr.P.C. by the High Court for quashing the criminal Proceedings.

9. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given 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 mentioned wherein such power should be exercised:

(a) 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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;

(c) where the controverted 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;

(d) 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;

(e) 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;

(f) 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;

(g) where a criminal proceeding is manifestly attended with malafide 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. In another case of **Ahmad Ali Quraishi And Another v. State Of Uttar Pradesh And Another**, [2020] 13, SCC 435, the Apex court relied upon the Bhajan Lal case, in which seven categories were enumerated for quashing of the criminal proceedings.

11. In the case of **Prashant Bharti v. State (NCT OF DELHI)** (2013) 9 SCC 293, the Apex court lay down the four steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is

sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

12. The present case is squarely covered under the cited case laws of the Hon'ble Apex Court.

13. In view of the facts and circumstances, the present application filed under 528 BNSS succeeds and is, accordingly, **allowed**. Consequently, the entire proceeding of Case No. 1576 of 2020 (State Vs. Faizan), arising out of Case Crime No. 82 of 2020, under Sections 188, 269, 307 I.P.C. read with Section 51(b) of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897, Police Station Shahganj, District Jaunpur, pending in the court of learned Additional Chief Judicial Magistrate, Court No. 2, Jaunpur, so far as it relates to the present applicants, is hereby **quashed**.

(Dr. Gautam Chowdhary,J.)

September 18, 2026
Mustaqeem.