



2026:AHC:164867

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 42515 of 2025

Avnish Kumar @ Awdhesh And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Vimal Kumar Pandey, Vinod Kumar Singh

Counsel for Opposite Party(s) : G.A.

Court No. - 81

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.
2. The present application under Section 528 B.N.S.S. has been filed seeking quashing of the charge-sheet dated 26.10.2019, cognizance/summoning order dated 22.06.2021 as well as the entire proceedings of Case No. 2590/IX/2021 (State vs. Avnish & Another), arising out of Case Crime No. 172 of 2019, under Sections 452, 323, 504 and 506 I.P.C., Police Station Naraini, District Banda.
3. As per the prosecution case, on 17.09.2019 at about 6:30 p.m., while the informant was returning home after carrying out repair work on an electricity pole in the village, the accused persons confronted him, abused him and assaulted him. It is alleged that Ramhit assaulted the informant with kicks and fists, while Deepchand and Sohith also participated in the assault. During the incident, the informant entered a nearby house, where the accused persons allegedly trespassed and again assaulted him. Accused Avnish, armed with a sickle (hasiya), also attempted to assault the informant and the accused persons extended threats to kill him, due to which the informant sustained injuries.
4. Learned counsel for the applicants submitted that the prosecution is malicious and has been instituted due to a family property dispute. It is submitted that the F.I.R. was lodged after an unexplained delay and

there are material contradictions regarding lodging the FIR as well as statement of the informant and witnesses. It is further submitted that the medical examination was conducted after three days and only simple injuries were found on the body of the injured. It is next submitted that the statements of the complainant and the witnesses are different and during investigation one co-accused has been exonerated while the applicants were charge-sheeted. It is also submitted that the dispute is purely civil in nature and has been given a colour of criminality.

5. Per contra, learned A.G.A. submitted that the allegations in the F.I.R., the statement of eyewitness Deep Chand and the medical evidence clearly disclose the commission of cognizable offences. It is submitted that the defence raised by the applicants involves disputed questions of fact which cannot be examined in proceedings under Section 528 B.N.S.S.
6. From the perusal of the record, it appears that the F.I.R. it reflects that specific allegations against the applicants. The statement of eyewitness Deep Chand recorded during investigation, in which it is stated that the informant had entered his house to save himself, thereafter accused persons dragged him outside from his house and assaulted him. The medical examination of the informant shows that he sustained injuries, though simple in nature, which lends corroboration to the prosecution version regarding the occurrence. The contention raised by learned counsel for the applicant that the disputes between the parties are civil in nature are subject matter of trial which cannot be adjudicated in proceedings under Section 528 B.N.S.S.
7. At this stage, the Court is only required to examine whether a prima facie case is made out. The F.I.R., the statement of eyewitness Deep Chand and the medical evidence, prima facie disclose the commission of cognizable offences against the applicants.
8. The position of law for invoking the inherent jurisdiction of the High Court has been settled by the Apex Court in the following judgments:-

R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866;

Kurukshetra University Vs. State of Haryana, (1977) 4

SCC 451;

**State of West Bengal Vs. Swapan Kumar Guha, (1982) 1
SCC 561;**

**Dhanalakshmi Vs. R. Prasanna Kumar, 1990 Supp SCC
686;**

**State of Haryana & Others Vs. Bhajan Lal, 1992 Supp
(1) SCC 335;**

State of Bihar Vs. P.P. Sharma, 1992 Supp (1) SCC 222;

B.S. Joshi Vs. State of Haryana, (2003) 4 SCC 675;

**Sanapareddy Maheedhar Seshagiri & Another Vs. State
of Andhra Pradesh & Another, (2007) 13 SCC 165;**

**State of Telangana Vs. Habib Abdulla Jilani &
Others, (2017) 2 SCC 779;**

**M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of
Maharashtra & Others, AIR 2021 SC 1918.**

9. After considering the facts of the case and keeping in mind the settled position of law, there is no merit in the present application. Apart from that, there is no material to show that the complaint/F.I.R. is mala fide, frivolous, or vexatious. Interference at the threshold for quashing the criminal proceedings in the present case cannot be said to be warranted, as the allegations prima facie disclose the commission of cognizable offences
10. In the result, the prayer for quashing the entire proceedings, the charge-sheet, and the cognizance order is refused.
11. Accordingly, the present applicant is rejected.

August 6, 2026
Akbar

(Madan Pal Singh,J.)