



2026:AHC:33951-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 29828 of 2025

Surendra Kumar And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Bakhteyar Yusuf, Santosh Kumar
Counsel for Respondent(s) : G.A., Satya Nisth Dwivedi

Court No. - 45

**HON'BLE RAJIV GUPTA, J.
HON'BLE ACHAL SACHDEV, J.**

1. Heard learned counsel for the petitioners, learned A.G.A. for the State and perused the record.
2. The instant writ petition seeks quashing of the FIR dated 9.12.2025 giving rise to Case Crime No. 525 of 2025, under Sections 305(a), 331(4), 352, 351(3) of BNS., Police Station- Phoolpur, District- Prayagraj.
3. Learned counsel for the petitioners has submitted that the petitioners are wholly innocent and have been falsely implicated in the present case due to ulterior motive.
4. Learned counsel for the petitioners has next submitted that from the allegations made in the first information report, prima facie no offence, complained of, is disclosed against the petitioners.
5. Per contra, learned AGA has vehemently opposed the said prayer and has submitted that as per the allegations made in the FIR, it is alleged that on 12.7.2025 in the dark hours of night at about 2.00 A.M., the petitioner no.1-Surendra Kumar entered into the house of the respondent no. 4 and after breaking open the lock, had stolen silver/golden jewelleryes and removed Rs. 25000/- cash from the said box. Hearing the noise, the victim woke up and identified the thief and started raising alarm, consequent to which,

the petitioner no.1, extending death threats to the victim, fled away. The information regarding the incident was sent to the police, who reached at the place of incident and after making requisite inquiry, the police returned back. Thereafter, the petitioners- Surendra Kumar and Indra Bahadur, armed with lathi-danda, further forcefully barged into the house of the victim and again started hurling buses and extended death threats to them.

6. Learned AGA has further submitted that from perusal of the allegations made in the first information report, prima facie offence, complained of is clearly disclosed against the petitioners and, as such, the first information report cannot be quashed in view of the law laid down by the Supreme Court in the case of ***State of Telangana Vs. Habib Abdullah Jellani reported in (2017) 2 SCC 779, Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others reported in (2021) SCC Online SC 315*** and in a recent decision of the Hon'ble Apex Court in ***Criminal Appeal No. 843 of 2024, Directorate Enforcement Vs. Niraj Tyagi and others***.

7. Having considered the rival submissions made by learned counsel for the parties and taking into consideration the allegations made in the FIR, wherein it is alleged that on 12.7.2025 in the dark hours of night at about 2.00 A.M., the petitioner no.1-Surendra Kumar entered into the house of the respondent no. 4 and after breaking open the lock, had stolen silver/golden jewellerys and removed Rs. 25000/- cash from the said box. Hearing the noise, the victim woke up and identified the thief and started raising alarm, consequent to which, the petitioner no.1, extending death threats to the victim, fled away. The information regarding the incident was sent to the police, who reached at the place of incident and after making requisite inquiry, the police returned back. Thereafter, the petitioners- Surendra Kumar and Indra Bahadur, armed with lathi-danda, forcefully barged into the house of the victim and after hurling buses, extended death threats to them, we are of the opinion that prima facie offence against the

petitioners is clearly disclosed. Moreover, keeping in view the relevant law cited by learned A.G.A. for the State and noting the submissions made by learned AGA for the State, we are of the opinion that impugned first information report can not be quashed as against the petitioners.

8. The prayer for quashing the impugned FIR is, therefore, refused.

9. In view thereof, the instant writ petition lacks merit and it is accordingly **dismissed**.

February 16, 2026

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(Achal Sachdev,J.) (Rajiv Gupta,J.)