



2026:AHC:62798-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 6161 of 2026

Shri Nadeem Ali

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Jaideep Pandey

Counsel for Respondent(s) : Adil Jamal, G.A., Shabeh Jamal

Court No. - 48

HON'BLE RAJIV GUPTA, J.

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

1. Heard learned counsel for the petitioner, learned A.G.A. for the State, Sri Adil Jamal, learned counsel for respondent No. 4 and perused the record.

2. The instant writ petition has been filed by the petitioner for the following reliefs:

"(i) issue a writ, order or direction in the nature of certiorari to quash the first information report dated 14.02.2026 registered as Case Crime No. 44 of 2026, under Sections 85, 70(1), 352, 115(2), 351(3) BNS and 3/ 4 of D.P. Act, P.S. Bhojpur, District- Moradabad.

(ii) issue a writ, order or direction in the nature of mandamus directing to respondents not to arrest the petitioner in pursuance to the impugned F.I.R. and not adopt any coercive action against the petitioner.

(iii) issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the present case.

(iv) award the cost of the writ petition."

3. Learned counsel for the petitioner has submitted that petitioner is wholly innocent and has been falsely implicated in the present case due to ulterior motive.

4. Learned counsel for the petitioner has next submitted that the petitioner is the brother-in-law of respondent no. 4 and on account of matrimonial

discord between husband and wife, the impugned first information report has maliciously been lodged by the respondent no. 4.

5. Learned counsel for the petitioner has next submitted that from the allegation made in the first information report, prima facie, no offence, whatsoever, is disclosed against the petitioner and as such, the impugned first information report qua the petitioner is liable to be quashed. Learned counsel for the petitioner further submitted that the allegations made in the impugned first information report are patently false, mischievous and cooked up just with an intention to drag him in criminal court and to harass and humiliate him and as such, the impugned first information report qua the petitioner is liable to be quashed.

6. Per contra, learned AGA as well as learned counsel for respondent no. 4 have vehemently opposed the said prayer and have submitted that from perusal of the allegation made in the impugned first information report, prima facie, offence is clearly disclosed against the petitioner. It is further submitted that specific allegation of committing rape upon the victim-respondent no. 4 alongwith one Qasim has been alleged against the petitioner on 21.12.2025, even prior to the marriage, serious allegations have been made against the petitioner while lodging the first information report by the respondent no. 4. Learned AGA further submitted that during course of investigation, the statement of the victim has been recorded under Section 183 B.N.S.S. and specific allegation of committing the offence of rape upon the victim has even been alleged in her statement before the Magistrate. It is stated by the victim that after the said incident of rape, when her husband returned back, she informed him about the said incident, who went to his parents and informed them about the said incident, however, they started blaming the victim of making false statement. Thereafter, she left her matrimonial house and started staying at her parental place, however after holding a Panchayat, dispute was settled and the petitioner apologized for his mistake and thereafter she again returned back to her matrimonial home. However, again on 4.1.2026 she was raped by the petitioner. Thus, from the said allegation, prima facie, offence, complained of, is clearly disclosed against the petitioner and as such, the impugned first information report cannot be quashed. To buttress his arguments learned AGA has relied upon 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** and **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, and has thus submitted that in the backdrop of the aforesaid facts and circumstances of the case and in view of law laid down by Hon'ble Apex Court, the impugned first information report cannot be quashed at this nascent stage when particularly in view of the statement of the victim recorded under Section 183 BNSS.

7. Having considered the rival submissions made by the learned counsel for the parties and taking into consideration the allegation made in the impugned first information report and having gone through the statement of the victim recorded under Section 183 B.N.S.S. as discussed above, we are of the opinion that prima facie, offence, complained of, is clearly disclosed against the petitioner, therefore, the impugned first information report cannot be quashed at this nascent stage and the prosecution story cannot be nipped in the bud, the veracity of which shall be looked into at the time of trial particularly keeping in view the statement of the victim recorded under Section 183 of the BNSS, prima facie, disclosing cognizable offence against the petitioner.

8. In the light of aforesaid discussions and keeping in view the principles of law laid down by Hon'ble Apex Court in the decisions cited above, we are of the opinion that the impugned first information report cannot be quashed qua the petitioner at this nascent stage.

9. The prayer for quashing of the first information report is therefore, refused.

10. The instant writ petition lacks merit and is accordingly **dismissed**.

(Dr. Ajay Kumar-II,J.) (Rajiv Gupta,J.)

March 25, 2026

Dhirendra/