

Neutral Citation No. - 2025:AHC:78127

AFR

Reserved

Court No. - 76

Case: APPLICATION U/S 482 No. - 19916 of 2024

Applicant: Durga Yadav

Opposite Party: State of U.P. and Another

Counsel for Applicant: Abhishek Kumar Yadav

Counsel for Opposite Party: G.A.

AND

Case :- APPLICATION U/S 482 No. - 32200 of 2024

Applicant :- Rakesh David And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Upendra Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vinod Diwakar,J.

1. Heard learned counsel for the applicants, learned Additional Advocate General, assistant by learned A.G.A. for the State-respondent, and perused the record.

2. In the present proceeding, the applicant has assailed the criminal proceedings arising out of Case Crime No.335 of 2023, under Section 3 and 5(1) of the Uttar Pradesh Prohibition of Unlawful Religious Conversion Act, 2021¹, read with Section 419, 420, 508 IPC registered at Police Station- Kerakat, District Jaunpur² and impugned cognizance order dated 6.1.2024 passed by learned Additional Chief Judicial Magistrate-III, Jaunpur.

2.1 The prosecution's stems from the fact that upon receipt of confidential information in the village Vikrampur, at the church, some men and women were luring innocent people from the local and distant areas into religious conversion by offering money and medical treatment. The station-in-charge, his team, and the informant

¹ *Hereinafter referred to as Act, 2021*

² *Hereinafter referred to as FIR*

proceeded towards Vikrampur Church. As they reached the church, some people were sitting near the stage, while others were seated in front. A person near the microphone was persuading the innocent audience to adopt the religion of Lord Jesus by tempting them with money and free medical treatment.

2.2 As the police entered the church, the people sitting in front of the stage began to flee upon seeing the police. The police apprehended three men and one woman on the spot, while the person speaking on the microphone escaped.

2.3 Upon questioning the apprehended individuals and searching them, they identified themselves as **(i)** Govind Lal, son of Lal Bahadur, resident of Sihauli, Kerakat Police Station, Jaunpur District, **(ii)** Jitendra Kumar, son of Lotu Ram, resident of Vikrampur, Kerakat Police Station, Jaunpur District, **(iii)** Surendra Gautam, son of (Late) Jayram Gautam, resident of Pyarepur, Sarai Khwaja Police Station, Jaunpur District, and **(iv)** Smt. Usha Devi, wife of Shravan Kumar, resident of Vikrampur, Kerakat Police Station, Jaunpur District.

2.4 The premises was searched, various materials related to religious conversion were recovered, including: nine large Bibles, one small Bible, one "Gutka" (holy scripture) of the Bible, one diary containing records of different illnesses, their treatments, and feedback on recoveries, ninety-eight white posters for Lord Jesus' preaching, one hundred thirty-eight pink pamphlets for "Satsang Prayers", two hundred ninety-three pamphlets titled "Birth, Life, Death- What Next," thirty-six pamphlets on "Five Steps of Faith", fourteen pamphlets titled "How to Seek God", twenty-four white envelopes with names written on them, thirty-two plain white envelopes, one "Dholak" (traditional drum), one harmonium, two microphone stands, six microphone cables, four microphones, one sound mixer machine, one selfie stand, one steel speech stand, one

glass speech stand with a glass rack, one pen drive, one mobile connector cable, one camcorder microphone, and two sound machine connectors.

2.5 When questioned about the seized religious conversion materials and the escaped speaker, all four detained individuals, separately and collectively, revealed that the person who fled was Shravan Kumar, son of Lotu Ram, resident of Vikrampur village. He is the husband of Usha Devi and the brother of Govind Lal. Shravan Kumar is also the pastor of this church.

2.6 They further confessed that they, along with others, were involved in persuading local and distant people to convert to Christianity by offering money and free medical aid. They also stated that their leader is Durga Yadav, son of Sampat Yadav, resident of Bhullan Deeh, Chandvak Police Station, Jaunpur District, who is also the pastor of the Bhullan Deeh Church, and instructed them to convert innocent people and provided money and religious conversion-related materials.

2.7 Based on aforesaid allegations, impugned FIR was registered by S.H.O. in the interest of maintaining public order and health, and during investigation the statements of the victims- Tufani Ram, Lalman Chauhan, Nirmala Devi, Amit Kumar Vishwakarma, Mahendra Saroj, Sandhya Devi, Chandrawati Devi, Gautam Yadav, Subhash Singh, Balwant Rajbhar, Roshan Khairwar, have been recorded, and accordingly, the charge sheet was filed against applicant Durga Yadav and other co-accused.

3. For ready reference, the statement of one of the victims- Gautam Yadav, son of Shri Sangram Yadav, a resident of Village Mahadeva, Police Station Kerakat, District Jaunpur- has been reproduced below:

“I have observed that people from my village and nearby villages, as well as those from other police station jurisdictions, are being lured with money, medicines, treatment, and other benefits. They are also being frightened in the name of protection from disasters and pandemics, and are being enticed to believe in Jesus Christ and adopt Christianity.

This work is being carried out by Shravan Kumar, a pastor and son of Loturam, resident of Vikrampur, Police Station Kerakat, District Jaunpur, along with other members of his team, and Jitendra Ram, son of Kailash Chandra Ram, resident of Thunhi, Police Station Chandwak, District Jaunpur, along with their associate Ajay Bhardwaj, son of Katwaru Bhardwaj, resident of Kachhawan, Police Station Chandwak, District Jaunpur.

They are engaged in converting people from their own and neighboring villages falling under the jurisdictions of Kerakat and Chandwak police stations. Shravan Kumar and Jitendra Ram have also constructed churches in the villages of Vikrampur and Thunhi, where they conduct conversions under the guise of prayer and healing. They also distribute various books and pamphlets.

These individuals, including Shravan Kumar, Jitendra Ram, and others, collectively harassed and pressured me through inducements and fear to adopt Christianity, which left me deeply frightened. All the materials used for religious conversion are provided by Durga Yadav of Bhullandih, Police Station Chandwak. The conversions are conducted under his instructions.”

4. The core issue before the Court is whether the registration of impugned FIR by the S.H.O. renders the entire criminal proceedings *void ab initio* in reference to the expression “*any aggrieved person*” employed in Section 4 of Uttar Pradesh Prohibition of Unlawful Religious Conversion Act, 2021.

5. Shri Abhishek Singh Yadav, learned counsel for the applicant *inter alia* stated that the criminal proceeding *qua* applicant is not maintainable as the registration of the impugned FIR is in the teeth of Section 4 of Act 2021. The S.H.O. P.S. Kerakat is not an “*aggrieved person*” enabling him to register the FIR. The “*aggrieved person*” could only be a victim, his/ her parent, brother, sister, or any other person who is related to him/her by birth, marriage or adoption may lodge an FIR of such conversion which contravenes the provisions of Section 3 of the Act, 2021. Section 4 of the Act, 2021 has reproduced herein below:

“4. Person to Competent to Lodge First Information Report- Any aggrieved person, his/her parents, brother, sister, or any other person who is related to him/her by blood, marriage or adoption may lodge a First Information Report of such conversion which contravenes the provisions of Section 3.”

5.1 He next submitted that on plain reading of Section 3 of the Act, 2021, no offence under Section 5(i) of the Act has been made out against the applicant. The complainant is not the aggrieved person within the meaning of section 4 of Act, 2021. The amendment brought vide Gazette Notification dated 06.08.2024 titled *U.P. Prohibition of Unlawful Conversion of Religion (Amendment) Act, 2024*³ shall not applicable qua applicant in the given facts and circumstances. The expression “any aggrieved person” under Section 4 of the Act 2021 is qualified and limited by the subsequent enumeration of specific relationships- namely, the person’s parents, siblings, or blood relatives by marriage or adoption. Any interpretation that extends the term beyond this statutory scope would render the legislative intent redundant. The ingredients of Sections 419, 420, 508 IPC read with Sections 3 and 5(i) of the Act, 2021 are not made out against the applicant on examination of the statement of victim and relied upon Chairman, Indore Vikas Pradhikaran v. Pure Industrial Coke & Chemicals Ltd. And others⁴, Union of India v. Ashok Kumar Sharma and others⁵, Bhagwan Shree Rajneesh v. State of Bihar⁶, State of Haryana v. Bhajan Lal⁷, Ramesh Chandra Gupta v. State of U.P.⁸, Jose Papachen and another v. State of U.P.⁹, Bashir v. State of Kerala¹⁰.

6. On this limited issue, A.C.S. (Home) U.P. Lucknow was directed to file an affidavit clarifying as to who shall be considered as aggrieved person- to register the FIR within the meaning of Section 4 of the Act, 2021.

³ Hereinafter referred to as Act, 2024

⁴ 2007 (8) SCC 705

⁵ AIR (2020) SC 5274

⁶ 1986 PLJR 1038

⁷ 1952 Suppl. (1) SCC 335

⁸ 2022 LiveLaw (SC) 993

⁹ Criminal Appeal No.877 of 2023, decided by co-ordinate Bench of Allahabad High Court

¹⁰ (2004) 3 SCC 609

7. In response, the A.C.S. (Home) filed an affidavit *inter alia* stating, (i) the word “*any aggrieved person*” has not been defined in the definition clause under Section 2 of the Act of 2021, therefore it shall be harmoniously read with Section 7 of the Act of 2021 along with provisions of Chapter XIII of B.N.S.S. 2023, (ii) the desired objective of the Act, 2021 would be defeated if the local S.H.O.-responsible to maintain law and order of the area - is denuded from the power to register the FIR, and the Act shall be a dead letter, (iii) the word “*any aggrieved person*” is an expression of wide import and ought to be construed to cover any “*informant*”, who possesses information of commission of cognizable offence, (iv) in case of unlawful mass conversion, the purpose of the Act, 2021 would fail if strict interpretation is construed for interpretation of Section 4, (v) the applicant’s case does not fall in the category in any of the provisions contained in Chapter XXXVII of BNSS, 2023, and (vi) keeping in view the sensitivity and gravity of the unlawful religious conversion and its impact on the society, the state government has brought the U.P. Prohibition of Unlawful Conversion of Religion (Amendment) Act, 2024. For clarity, substituted Section 4 has been reproduced herein below:

“4. An information relating to the contravention of the Act may be given by any person and the manner of giving such information shall be the same as given in Chapter XIII of the B.N.S.S. 2023 (Act No.46 of 2023)”.

8. Additionally, learned A.A.G. submitted that the objective of enacting the Act, 2021 is the prohibition of unlawful conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by the marriage and for the connected matters. The Constitution of India confers on each individual the fundamental right to profess, practise and propagate his religion, subject to public order, morality and health. He next submits that the applicant was the main resource person and

under whose command, control and resources, the innocent villagers have been lured with money and tempted with free medical treatment for religious conversion and were being frightened in the name of protection from diseases and pandemics, and were being enticed to believe in Jesus Christ and adopt Christianity.

9. India's constitutional framework guarantees the right to religious freedom under Article 25 of the Constitution of India. This Article confers upon every person the fundamental right to freely profess, practise, and propagate religion, subject to public order, morality, and health. The use of the word "*freely*" in Article 25 underscores the voluntary nature of religious belief and expression. However, the Constitution does not endorse forced or fraudulent conversions, nor does it shield coercive or deceptive practices under the guise of religious propagation.

10. Article 25(1) guarantees freedom of conscience and the right to freely profess, practise, and propagate religion. However, this right is expressly subject to public order, morality, and health, which provides a constitutional foundation for regulating religious conversions that are procured through coercion, misrepresentation, or undue influence. These limitations are essential in ensuring that the exercise of religious freedom does not disrupt the societal fabric or endanger individual and communal well-being.

10.1 The presumption that one religion is inherently superior to other clearly presupposes the moral and spiritual superiority of one religion over another. Such notion is fundamentally antithetical to the idea of secularism. Indian secularism is rooted in the principle of equal respect for all religions. The State neither identify with nor favour any religion, but instead must maintain a principled equidistant from all religions and faith.

10.2 In light of these constitutional safeguards, the *Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021* has been enacted, aimed at maintaining public order, moral integrity, and health in alignment with Article 25 of the Constitution. The primary object of the Act is to prohibit conversions from one religion to another that are carried out through misrepresentation, force, undue influence, coercion, allurement, fraudulent means, or marriage for the sole purpose of unlawful conversion. By targeting such methods, the law seeks to prevent exploitation and manipulation that could have broader destabilising effects on social harmony, besides disruption of law and order.

11. Thus, section 4 of the Act, 2021 has been substituted with section 4 by the Amendment Act, 2024 to align with the constitutional spirit by balancing the individual's right to religious freedom with the state's duty to uphold public order, morality, and health. It clarifies unlawful conversion is not only an offence against an individual and their relatives, but also the State- particularly in cases of mass conversion of socially and economically deprived section of the society- when such conversions are carried out through misrepresentation, force, undue influence, coercion, allurement, fraudulent means, the threat to the societal fabric individuals or communal well-being becomes even more grave. In such circumstances, the State cannot remain a silent spectator.

12. Based on the foregoing deliberations, it can safely be concluded that section 4 of the Uttar Pradesh Prohibition of Unlawful Conversion Act, 2021, shall be construed in harmonious conjunction with Section 173 of BNSS, 2023 (section 154 of the Code of Criminal Procedure, 1973), so as to effectuate the legislative object of deterring and penalizing unlawful religious conversions. Applying the principle of purposive interpretation, the undefined term “*any aggrieved*

person” under the unamended Section 4 of the Act, 2021 cannot be interpreted in isolation. Given the statutory context and intent of the enactment, the expression must be construed broadly to include the *Station House Officer (S.H.O.)*, who is legally mandated to maintain public order and is competent under Section 173 of BNSS, 2023 to register FIR for cognizable offences.

13. The use of the word “*may*” in section 4 of the Act is indicative of legislative intent to confer a discretionary power rather than impose a mandatory obligation. It is a well-settled principle of statutory interpretation that a term “*may*”, when employed by the legislature, ordinarily denotes permissiveness and confers discretion, unless the context or the objective of the statute compels a different construction. In the context of section 4 of the Act, 2021, which enables *any aggrieved person*, their relatives, or any other person related by blood, marriage, or adoption to lodge a complaint, the use of “*may*” suggests that such persons are empowered and at the same time keep the expression “*any aggrieved person*” a class apart, who under obligation of the Act empowered to initiate legal proceedings. Specially, in cases of unlawful mass conversion, it is the statutory duty of the State to prevent unlawful conversions by misrepresentation, coercion, or fraud to achieve the objective of the Act. Therefore, a narrow interpretation to the expression “*any aggrieved person*” would make the Act otiose.

14. Moreover, Section 7 of the Act, when read with the provisions contained in Chapter XIII of the BNSS, 2023, reinforces this interpretation by enabling police authorities to register, investigate and act upon offences under the Act. In addition, Section 170 of BNSS, 2023, which permits preventive measures to maintain public peace, supersedes any narrow reading of Section 4 of Act, 2021 and underlines the preventive and protective function of the police in religiously sensitive matters. In cases of unlawful mass conversion, to

exclude police from initiating legal action would paralyse enforcement, thereby rendering the operative provisions- Sections 3(1), 5, 10, and 11- ineffective.

15. Additionally, the phrase “*any aggrieved person*” under the pre-amended Section 4 of Act, 2021 is not defined, and applying the principle of purposive interpretation, it shall be read in a manner that effectuates the objective of the Act to safeguard freedom of conscience and prevent its infringement through unlawful conversion practices.

16. Statutory interpretation often hinges not merely on words used by the legislature, but also on their syntactic arrangements- including punctuation. The placement of a comma (,), though seemingly trivial, can profoundly affect later legal rights and liabilities. Section 4 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 is a classical illustration. This provision allows certain persons to file complaints related to unlawful religious conversion, and the placement of a comma after “*any aggrieved person*” has led to interpretive uncertainty. The comma singles “*any aggrieved person*” as a separate class of complaints, distinct from family members and others listed in the section. The pivotal punctuation mark here is the comma after “*the aggrieved person*”.

17. Where ambiguity arises, reliance is placed on context, legislative intent, and established principles of statutory interpretation. The comma after “*any aggrieved person*” suggests a deliberate separation- pointing to the likelihood that “*any aggrieved person*” stands independently, unqualified by familial connection. The primary objective of the Act, 2021 is to prevent religious conversions brought about through coercion or frivolous means- such as misrepresentation, force, undue influence, coercion, allurement, or fraudulent means. Interpreting “*any aggrieved person*” broadly serves this purpose by

expanding the category of individuals who can initiate legal action. The placement of a comma after “*any aggrieved person*” in section 4 of the Act, 2021 supports an interpretation that separates the aggrieved person from the list of relatives and others.

18. Section 4 of the Amended Act, 2024, expressly clarifies and permits “*any person*” to provide information in accordance with *Chapter XIII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.)*, confirms the legislative intent to widen the scope of informants and further clarify procedural access. This substitution must be read as *clarificatory* in nature, consistent with the principle that procedural amendments apply to pending actions and supports a harmonious construction with sections 173 & 175 of BNSS, 2023. It thereby reinforces that the police, or any person aware of the commission of a cognizable offence under the Act, 2021 is empowered to initiate proceedings, thus ensuring that the statute is not rendered otiose.

19. Thus, “*any person*” aggrieved by the unlawful conversion in infringement of Article 25 of the Constitution of India, in accordance with the provisions of Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, as amended by Act, 2024 entitled to file a complaint before the police to lodge a FIR to achieve its objectives.

20. Reverting to the present case, the allegations made in the FIR and on perusal of the statement of victim Gautam Yadav, besides other victims, do clearly constitute a cognizable offence justifying the registration of the case and the investigation thereon, and therefore, this case does not fall in any of the category of the cases formulated in *State of Haryana v. Bhajan Lal and others*¹¹, calling for exercise of

11 1992 Suppl. (1) SCC 335

extraordinary or inherent powers of the High Court to quash the FIR and the proceedings arising out of the same.

20.1 It is further clarified, the expression contained in the order shall have no bearing on the merits of the case, however, it shall be open for the applicant to raise all the grounds at the appropriate stage before the trial court.

21. Accordingly, the application is hereby ***dismissed***. As the applicant has not been arrested by the police, therefore, it is made clear that the applicants shall not be taken into judicial custody, subject to the terms and conditions as may be decided by the trial court. In case, if the applicant does not cooperate with the trial, the trial court may proceed further in accordance with law.

Order Date :- 7.5.2025

Anil K. Sharma

Vinod Diwakar, J.