



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 3034 of 2026

Devendra Kumar Singh And 5 Others

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 2
Others

.....Respondent(s)

Counsel for Petitioner(s)	: Kirti Veer Singh, Abhishek Singh, Ravi Shanker Singh
Counsel for Respondent(s)	: G.A., Aman Thakur, Vineet Tripathi

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard learned counsel for the petitioners, learned AGA for respondents no.1 and 2 and Sri Aman Thakur, learned counsel for respondent no.3.
2. Instant petition has been filed praying for quashing the FIR bearing No.0042 dated 24.03.2026 under Sections 3(5), 115(2), 352, 351(3) and 109 of BNS 2023, Police Station Karaundikalan, District Sultanpur.
3. The contention of learned counsel for the petitioners is that from perusal of the impugned FIR it emerges that the petitioners are said to have severely beaten up the complainant's elder brother, Vidya Sagar, with the result that he has suffered grievous injuries.
4. Placing reliance on the injury report, a copy of which has been filed as Annexure-4 to the writ petition, it is contended that the injuries indicated are simple in nature and consequently the offence under Section 109 of the BNS 2023 is not made out. It is further contended that other offenses as indicated in the impugned FIR all carry a sentence of less than seven years. It is further contended that a civil dispute is pending between the parties and impugned FIR has been lodged in order to give a criminal color only to the civil dispute.
5. Placing reliance on the judgment of Hon'ble Supreme Court in the case of **Anukul Singh vs. State of Uttar Pradesh and another - 2025 INSC 1153** the contention is that the Hon'ble Supreme Court has held that disputes concerning repayment of loan money and alleged coercion in execution of documents are purely civil in nature, meaning thereby that it is purely a civil dispute and offence should not be made to give criminal colour to such disputes.
6. On the other hand, learned counsel for respondent no.3 has produced copy of the

injury report which has been sent by the Police Station Karaundikalan to the Chief Medical Officer, District Sultanpur duly indicating the injuries suffered by Vidya Sagar which also pertains to an injury on the head.

7. The contention is that the said injury on the head indicates the seriousness of the injury and consequently Section 109 of the BNS 2023 has correctly been invoked against the petitioners.

8. Having heard learned counsels for the parties and having perused the records, it emerges from perusal of the FIR that on account of the incident which had occurred on March 22, 2026, where the petitioners are said to have assaulted the complainant's elder brother Vidya Sagar and certain others, serious injuries have been occasioned to Sri Vidya Sagar. It is also clear from the letter which has been sent from Thana Karaundikalan to the CMO indicating the injuries of which, as already indicated above, one of the injuries sustained by Sri Vidya Sagar is an injury on the head.

9. Perusal of the FIR indicates that a cognizable offense is clearly made out against the petitioners.

10. In this regard, it would be apt to refer to the judgment of Hon'ble Supreme Court in the case of **Somjeet Mallick versus State of Jharkhand and Others :2024 INSC 772** wherein Hon'ble Supreme Court has held as under:

"18. It is trite law that FIR is not an encyclopedia of all imputations. Therefore, to test whether an FIR discloses commission of a cognizable offence what is to be looked at is not any omission in the accusations but the gravamen of the accusations contained therein to find out whether, prima facie, some cognizable offence has been committed or not. At this stage, the Court is not required to ascertain as to which specific offence has been committed. It is only after investigation, at the time of framing charge, when materials collected during investigation are before the Court, the Court has to draw an opinion as to for commission of which offence the accused should be tried. Prior to that, if satisfied, the Court may even discharge the accused. Thus, when the FIR alleges a dishonest conduct on the part of the accused which, if supported by materials, would disclose commission of a cognizable offence, investigation should not be thwarted by quashing the FIR."

11. From a perusal of the judgment of the Hon'ble Supreme Court in the case of **Somjeet Mallick (supra)**, it emerges that when an FIR discloses the commission of a cognizable offence, what is required to be looked at is the gravamen of the accusations contained therein to ascertain whether, prima facie, a cognizable offence has been committed or not. At this stage, the Court is not required to determine as to which specific offence has been committed. Thus, when the FIR alleges a cognizable offence on the part of the accused, the investigation should not be thwarted by quashing the FIR.

12. Even otherwise, Hon'ble Supreme Court in the case of **Sanjay Kumar Gupta Vs. State of U.P and others 2025 Live Law (SC) 1170** has held that where a cognizable offence is made out from the perusal of the FIR, the High Courts are not expected to interfere.

13. For convenience, the observations of the Hon'ble Supreme Court of India in the case of **Sanjay Kumar Gupta (supra)** are reproduced as under (paragraph 6 and 7) :-

"6. The High Court refused to exercise its jurisdiction for quashing of the FIR and yet granted a blanket protection from arrest to the accused persons, i.e., the private respondents herein, till after filing of the charge sheet which, in our opinion, has caused a grave prejudice to the investigation of the case. There is neither any logic nor any rationale behind such direction.

7. It cannot be denied that provisions of pre-arrest bail are applicable in the State of Uttar Pradesh. Hence, any person accused of an offence if desirous of seeking such protection would be required to avail the appropriate remedy by approaching the competent Sessions Court at the first instance. To grant the relief of pre-arrest bail in a criminal writ petition while refusing to exercise jurisdiction to quash the proceedings is totally unacceptable and impermissible as has been held by this Court in the case of Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, reported in (2021)19 SCC 401:-

"22. As observed by this Court in Hema Mishra v. State of U.P. [Hema Mishra v. State of U.P., (2014) 4 SCC 453 : (2014) 2 SCC (Cri) 363], though the High Courts have very wide powers under Article 226, the powers under Article 226 of the Constitution of India are to be exercised to prevent miscarriage of justice and to prevent abuse of process of law by the authorities indiscriminately making pre-arrest of the accused persons. It is further observed that in entertaining such a petition under Article 226, the High Court is supposed to balance the two interests. On the one hand, the Court is to ensure that such a power under Article 226 is not to be exercised liberally so as to convert it into Section 438CrPC proceedings. It is further observed that on the other hand whenever the High Court finds that in a given case if the protection against pre-arrest is not given, it would amount to gross miscarriage of justice and no case, at all, is made for arrest pending trial, the High Court would be free to grant the relief in the nature of anticipatory bail in exercise of its powers under Article 226 of the Constitution of India, keeping in mind that this power has to be exercised sparingly in those cases where it is absolutely warranted and justified. However, such a blanket interim order of not to arrest or "no coercive steps" cannot be passed mechanically and in a routine manner.

23. So far as the order of not to arrest and/or "no coercive steps" till the final report/charge-sheet is filed and/or during the course of investigation or not to arrest till the investigation is completed, passed while dismissing the quashing petitions

under Section 482 CrPC and/or under Article 226 of the Constitution of India and having opined that no case is made out to quash the FIR/complaint is concerned, the same is wholly impermissible."

14. Even otherwise consideration of the grounds as raised by the learned counsel for the petitioners would amount to holding of a mini trial which has clearly been restrained by Hon'ble Supreme Court in the case of **Muskan vs. Ishaan Khan (Sataniya) and others; 2025 INSC 1287**.

15. For the sake of convenience, relevant observations of the Hon'ble Supreme Court in the case of **Muskan (Supra)** is reproduced below:-

"We are of the view that the High Court has erred in law by embarking upon an enquiry with regard to credibility or otherwise of the allegations in the complaints and the FIR. Normally, for quashing an FIR, it must be shown that there exists no prime facie case against the accused persons. In the present case, from the conjoint reading of the complaints and the FIR, it can be seen that prime facie allegations of harassment and demand of dowry are made out, despite that the High Court quashed the FIR against the private respondents primarily on the ground that the earlier two complaints that were filed by the appellant did not mention the specific instances that happened on 22.07.2021 and 27.11.2022 and the same were later on mentioned in the FIR only as an afterthought and was a counterblast to the legal notice sent by respondent no.1/husband to the appellant as she was not coming back to her matrimonial home. This approach adopted by the High Court, in our considered opinion, amounts to conducting a mini trial."

16. Recently Hon'ble Supreme Court in the case of **Accamma Sam Jacob vs. State of Karnataka and another etc- 2026 INSC 362** has held that merely because an attempt is made to indicate that there is only a civil dispute between the parties, the same may not restrain the Court inasmuch as even a civil dispute may carry an element of a criminal nature.

17. In the instant case, even if a civil dispute may be pending between the parties the same cannot and will not give a license to the petitioners to indulge into the incident which has been committed by them i.e. of having severely assaulted various persons including Sri Vidya Sagar which as per the injuries indicated by the Police Station itself also indicate that they are serious in nature.

18. For the case of convenience, relevant observations of Hon'ble Supreme Court in the case of **Accamma Sam Jacob (supra)** are reproduced below:-

"55. This Court has, time and again, emphasised that criminal investigation ought not to be scuttled at the threshold except in cases where the complaint ex facie does not disclose the commission of any cognizable offence or where continuation of the proceedings would amount to an abuse of the process of law. The power of the High

Court under Section 482 of CrPC or Article 226 of the Constitution of India to interdict investigation is to be exercised with great circumspection, bearing in mind the statutory duty of the investigating agency to inquire into cognizable offences. The said position has been eruditely explained by this Court in *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra*- (2021) 19 SCC 401, wherein it was observed as under: -

*"In a given case, there may be allegations of abuse of process of law by converting a civil dispute into a criminal dispute, only with a view to pressurise the accused. Similarly, in a given case the complaint itself on the face of it can be said to be barred by law. The allegations in the FIR/complaint may not at all disclose the commission of a cognizable offence. In such cases and in exceptional cases with circumspection, the High Court may stay the further investigation. However, at the same time, there may be genuine complaints/FIRs and the police/investigating agency has a statutory obligation/right/duty to enquire into the cognizable offences. **Therefore, a balance has to be struck between the rights of the genuine complainants and the FIRs disclosing commission of a cognizable offence and the statutory obligation/duty of the investigating agency to investigate into the cognizable offences on the one hand and those innocent persons against whom the criminal proceedings are initiated which may be in a given case abuse of process of law and the process. However, if the facts are hazy and the investigation has just begun, the High Court would be circumspect in exercising such powers and the High Court must permit the investigating agency to proceed further with the investigation in exercise of its statutory duty under the provisions of the Code.**"*

[Emphasis supplied]

Applying the aforesaid principles to the case at hand, it becomes evident that the High Court has transgressed the well-settled boundaries governing the exercise of powers under Section 482 CrPC at the threshold stage. The order impugned before the High Court was one passed by the learned Magistrate under Section 156(3) of CrPC, whereby the police were merely directed to register an FIR and to undertake investigation in accordance with law. At such a stage, the Court is only required to ascertain whether the allegations in the complaint disclose the commission of a cognizable offence warranting investigation.

56. In the facts and circumstances noted above, it was not at all justified for the High Court to have quashed proceedings merely on the ground that the dispute appeared to be civil in nature. It is well settled that the mere existence of a civil remedy does not by itself bar criminal proceedings where the allegations *prima facie* disclose commission of a cognizable offence. By entering into an evaluation of the dispute on merits and proceeding to quash the order directing investigation, the High Court effectively stifled the investigative process at its inception. Such an approach runs contrary to the principles consistently laid down by this Court."

19. Keeping in view the aforesaid discussion, no case for interference is made out. The writ petition is accordingly dismissed.

April 15, 2026

A. Katiyar

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)