



2025:AHC-LKO:58087-DB

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 3852 of 2025

Neha Singh Rathore @ Neha Kumari

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s)	:	Kaustubh Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 9

**HON'BLE RAJESH SINGH CHAUHAN, J.
HON'BLE SYED QAMAR HASAN RIZVI, J.**

1. Heard Sri Kamal Kishore Sharma, learned counsel for the petitioner, Sri (Dr.) V. K. Singh, learned Government Advocate assisted by Sri S. N. Tilhari, learned AGA and Sri Vipul Kumar Singh, learned State counsel for the State and perused the record.

2. By means of this petition, the petitioner has prayed for following reliefs:

"(i) issue a writ, order or direction in the nature of certiorari, quashing the impugned First Information Report dated 27.04.2025, lodged by opp-party no.2 at Police Station Hazratganj, District Lucknow, registered as Case Crime No.0111 of 2025, under Sections 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b), 197(1)(c), 197(1)(d), 353(1)(c), 353(2), 302, 152 of BNS, 2023 and 69a of the IT Act, 2008, as contained in Annexure No. 1 to this writ petition.

(ii). issue a writ, order or direction in the nature of mandamus, commanding the opp-party no.3, not to arrest, humiliate, harass, and victimize the petitioners, on the basis of the impugned First Information Report dated 27.04.2025, registered as Case Crime No.0111 of 2025, under Section 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b), 197(1)(c), 197(1)(d), 353(1)(c), 353(2), 302, 152 of BNS, 2023 and 69a of the IT Act, 2008, at Police Station Hazratganj, District Lucknow, as contained in Annexure no.1."

3. Learned counsel for the petitioner has drawn attention towards the impugned FIR which has been lodged under so many sections levelling allegations against the petitioner. He has also submitted that, *prima facie*, those offences do not make out against her. Sri Sharma has further stated that the petitioner is a singer and a social activist and is having fundamental right under Article 19(1)(a) of the Constitution of India to express her views on social media and no authority of the State can violate such fundamental right.

4. Sri Sharma has drawn attention of this Court towards the grounds: L, M, N & O of the writ petition saying that the allegations of the FIR do not attract the ingredients of those sections under which the FIR has been lodged. For the convenience, grounds: L to O reads as under:

"L. Because even if the post of the accused petitioner spoken by words has become viral amongst different groups of the person will not attract any of the provisions of Sections 197(1)(a), 197(1)(b), 197(1)(c), 197(1)(d). Such post of petitioner having become viral in our country or other countries cannot in any manner be said to be prejudicial to the maintenance of harmony among the various groups of person belonging to different caste and religion hence the registration of the FIR under the aforesaid section is nothing but a gross abuse of the process of law.

M. Because not even a single ingredient of this Section also is prima facie made out because the petitioner has not made or published or circulated any statement or any so-called false information including electronic means which would amount to having incited any class or community or any person to commit any offence against any other class and community.

N. Because by reading each and every content of the FIR sought to be quashed even through the magnifying glasses no person having the common knowledge of the observation can say that the words spoken, written and published by the accused would have excited cessation or armed rebellion or subversive activity encouraging feelings of separatists or endangering sovereignty and integrity of India making the accused liable for the imprisonment of life. The leveling of such allegation of such a higher magnitude without any iota of evidence seems to be ridiculous in nature without any legs to stand even.

O. Because no offence under Sections 196(1)(a), 196(1)(b), 197(1)(a), 197(1)(b),

197(1)(c), 197(1)(d), 353(1)(c), 353(2), 302, 152 of BNS, 2023 and 69a of the IT Act, 2008 has ever been committed by the petitioner herein."

5. Sri Sharma appearing on behalf of the petitioner has relied upon the judgement passed by the Hon'ble Apex Court in re; **Imran Pratapgadhi vs. State of Gujarat and another** reported in 2025 SCC OnLine SC 678. He has drawn attention of this Court to a portion of poem by one Imran Pratapgarhi and submitted that the Hon'ble Supreme Court has declared protected the said poetry under Article 19(1)(a) of the Constitution of India.

6. Sri Sharma has categorically made a submission before the Court that investigation is going on pursuant to the impugned FIR and the petitioner is ready to cooperate in the investigation. He contended that the petitioner has not been served with any notice or summon pursuant to the impugned FIR.

7. *Per contra*, Sri V.K. Singh, learned Government Advocate has submitted at the very outset that during the course of investigation, Sections 152 and 159 B.N.S. have been added. Learned Government Advocate has also stated that in the present case the judgment of Apex Court in re: **Imran Pratapgadhi** (supra) would not be applicable.

8. Learned Government Advocate has shown the relevant papers of the case diary to apprise the incriminating materials affecting the integrity and sovereignty of the country. In the case diary, there are some contents/ tweets of the petitioner on her social media account.

9. Tweet No.15 posted by the petitioner reads as under:-

"कश्मीर में आतंकी हमला हुआ और उसके फ़ौरन बाद मोदीजी ने आज बिहार में रैली कर दी... बिहार के मंच से ही पाकिस्तान को धमका दिया और जनता ने भी ताबड़तोड़ तालियाँ पीट दीं...

जो लोग भी मोदीजी की पॉलिटिक्स और बिहार की हालत को जानते हैं, उन्हें खूब समझ में आ रहा है कि पाकिस्तान को धमकी देने के लिए मोदीजी को बिहार क्यों आना पड़ा!

उन्हें बिहार इसलिए आना पड़ा... ताकि बिहार की जनता से राष्ट्रवाद के नाम पर वोट बटोरा जा सके... और बिहार की जनता के मुद्दों को फिर से साइडलाइन किया जा सके... अब मोदीजी और उनके साथ वालों को काम

के नाम पर तो वोट मिलना है नहीं... क्योंकि काम तो हुआ ही नहीं है... और भ्रष्टाचार इतना हुआ है कि ईमानदारी से चुनाव हो तो बहुतों की जमानत जब्त हो जाये.

बिहार चुनाव में उन्हें या तो हिंदू-मुसलमान के नाम पर वोट मिल सकता है या भारत-पाकिस्तान के नाम पर... तीसरा कोई रास्ता नहीं है... और ये लोग बाक़ी दोनों रास्ते अख़्तियार करेंगे."

10. Tweet No.16 reads as under:-

"आतंकवादियों को ढूँढने और अपनी गलती मानने की बजाय भाजपा देश को युद्ध में झोंकना चाहती है...

भाजपा देश के हज़ारों सैनिकों की जान जोखिम में डालना चाहती है."

11. Tweet No.34 posted by the petitioner reads as under:-

"जब कलमा पढ़ने से इनकार करने पर गोली मार ही दी गई तो ये क्रिस्सा मीडिया को किसने बताया?

मृतकों में एक नाम सईद हुसेन शाह का भी है. क्या सईद ने भी कलमा पढ़ने से इनकार किया था?

अपने दिमाग लगाइये... वो मत सोचिये जो भाजपा चाहती है."

12. Learned Government Advocate has also stated that the social media account of the petitioner has been widely circulated in the world specially in Pakistan and so many posts have been received during the investigation from Pakistan supporting the contents of present petitioner. Learned Government Advocate has further submitted that timings of the aforesaid propagative tweets is worth noticing inasmuch as on 22.04.2025, the unfortunate incident took place at Pahalgam, Jammu & Kashmir wherein 26 tourists have been brutally killed by the terrorists after knowing the religion of the tourists as all the tourists were Hindu by religion. At that point of time, security and integrity of the country was under threat and the Government was taking all possible efforts to curve such situation but during that period, the present petitioner started making aforesaid tweets without thinking that the situation is so sensitive and that time of tweets should not be circulated on the social media. He submitted that bare perusal of the aforesaid tweets would make it crystal clear that the petitioner is having so much vengeance against Bhartiya Janta Parity and its leaders including the Prime Minister. In her tweets, she commented on State politics of Bihar having ulterior motive and extraneous design in her mind. She commended that the B.J.P. is willing to start war and is willing

to sacrifice thousands of Army Soldiers. She tried to create the Hindu-Muslim angle, therefore, the basic fabric of the country where Hindu and Muslim live together peacefully has been tried to be distorted by the petitioner. The aforesaid illegal act and misdeed of the petitioner may not be protected in the light of Article 19(1)(a) of the Constitution of India but such right may be denied under sub-clause (2) of Article 19 of the Constitution of India which categorically provides that nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, insofar as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India as well as security of the State, friendly relations with foreign State, public order, decency or morality.

13. Learned Government Advocate has referred the dictum of the Apex Court in re; **Ramji Lal Modi Vs. State of U.P., 1957 SCC OnLine SC 77**, wherein the view of the Apex Court is that the claim of fundamental right under Article 19 (1)(a) of the Constitution of India is not absolute but the said fundamental right shall remain subject to the reasonable restrictions.\

14. Learned Government Advocate has referred the judgment of the Division Bench in re: **Ajeet Yadav vs. State of U.P. and 2 others, Criminal Misc. Writ Petition No.11525 of 2025**, wherein vide order dated 03.06.2025, the Division Bench has observed as under:

"A post written by the petitioner against the Prime Minister regarding his decision to desist from war etc. carries scurrilous language against the Head of the Government. It was published on the social media before it was reported to the Police, leading to registration of the impugned FIR.

Learned counsel for the petitioner has vehemently argued that the petitioner is a young man and was carried away by emotions.

Emotions cannot be permitted to overflow to an extent that Constitutional Authorities of the country are dragged into disrepute by employment of disrespectful words.

In the totality of circumstances, we do not find it to be a fit case to interfere with the

impugned FIR in exercise of our jurisdiction under Article 226 of the Constitution.

The petition is dismissed, accordingly."

15. As per Sri V.K. Singh, the Hon'ble Supreme Court in re; **State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335**, summarised the legal position by laying the following guidelines to be followed by the High Courts in exercise of their inherent jurisdiction:

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal

grudge."

16. Sri Singh has stated that in view of the aforesaid guidelines, the present writ petition is not maintainable inasmuch none of the aforesaid guidelines are being attracted in the facts and circumstances of the present case to quash/ set aside the impugned FIR. In the present case, the allegations made in the First Information Report, *prima facie*, constitute the offences under which the FIR has been lodged. Further, the material so collected by the investigating agency discloses cognizable offence justifying an investigation by the police under Section 156(1) of the Code.

17. The learned Government Advocate has drawn the attention of this Court towards the judgment and order dated 21.03.2023 passed in **Criminal Misc. Writ Petition No.2077 of 2023, Deepak Vs. State of U.P. & Others**, dismissing the writ petition whereby the FIR was assailed wherein the allegation against that petitioner was that he had made derogatory and disrespectful comments on Hon'ble the Chief Minister of U.P. and others. Relevant portion of the aforesaid judgment reads as under:-

"After having heard submissions advanced by learned counsel for parties and perused the impugned F.I.R., it is apparent that the petitioner had made a derogatory and disrespectful comments on Hon'ble Chief Minister of U.P., Yogi Adityanath Ji and Bageshwar Baba, Shri Dhirendra Shastri. Moreover, from the allegations made in the F.I.R. as a subject matter of investigation and at this stage it cannot be said that no offence, whatsoever is made out against the petitioner.

*In view of the ratio laid down by the Apex Court in **Neeharika Infrastructure Private Limited vs. State of Maharashtra: AIR 2021 SC 1918** and on perusal of the impugned F.I.R. and material on record, it transpires that, prima facie, a case is made out against the petitioner. The submissions made by the learned counsel for the petitioners relates to disputed questions of facts, which cannot be adjudicated upon by this Court in jurisdiction of under Article 226 of Constitution of India.*

From the perusal of the F.I.R., prima facie, it cannot be said that no cognizable offence is made out, hence no ground exists for quashing of the F.I.R. or staying the arrest of the petitioner.

*The writ petition is, accordingly, **dismissed.**"*

18. Sri V.K. Singh has also relied upon the judgment of the Apex Court in re; **P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24**, wherein the Apex Court in para-66 has held as under:-

"66. As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication. It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must be left to the discretion of the investigating agency to decide the course of investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused."

19. At last, learned Government Advocate has stated that since the investigation is going on and cooperation of the petitioner is required in the aforesaid investigation and during the course of investigation, the investigating authority shall follow the relevant provisions of law, so this writ petition is misconceived at this stage.

20. Having heard learned counsel for the parties and having perused the material available on record, we are of the considered opinion that although Article 19 of the Constitution of India gives all citizens the rights regarding freedom of speech and expression but subject to reasonable restrictions for preserving inter-alia public order, decency or morality. It is trite in law that the extent of protection of speech and expression would depend on whether, such speech and expression would constitute a propagation of ideas or would have any social value. If the answer to the said question is in affirmative, such speech would be protected under Article 19 (1) (a); if the answer is in negative, such speech and expression would not be protected under Article 19 (1) (a) of the Constitution of India.

21. After perusing the allegations of the FIR and the relevant portion of the case diary, we are convinced that the allegations in the First Information Report and other material, *prima facie*, disclose cognizable offence, justifying an investigation by the police officers.

22. The law is trite on the point as stated above that the fundamental right under Article 19(1)(a) is not an absolute right but the aforesaid right shall be considered subject to the reasonable restrictions in the light of Article 19(2) of the Constitution of India. The Hon'ble Supreme Court in re; **Kedar Nath Singh v. State of Bihar**, 1962 AIR 955, has observed that the State can impose restrictions to prevent speech that incites violence or undermines national unity or disrupts public order. The Hon'ble Supreme Court in re; **Dr. Ram Manohar Lohia v. State of Bihar and Others**, 1966 AIR 740, has upheld restrictions on publications containing prejudicial reports that could endanger public safety. It has been the consistent view of the Constitutional Courts that the restrictions may be imposed to prevent speech that incites violence, riots or public disorder. The Apex Court upheld the restrictions on publications promoting hatred and violence between communities.

23. In view of the facts, circumstances and reasons as well as the case laws so cited by the learned counsel for the parties, as considered above, since the allegations of the FIR and other material disclose, *prima facie*, cognizable offence, justifying investigation by the police officers, we are not inclined to interfere in the impugned FIR.

24. Further, the present case so placed and argued by the learned counsel for the petitioner does not qualify the touchstone of the guidelines so formulated by the Apex Court in re; **Bhajan Lal** (supra). We are in respectful agreement with the judgement of the Apex Court in re; **Bhajan Lal** (supra).

25. The judgment so cited by the learned counsel for the petitioner would not be applicable in the present case inasmuch as in re; **Imran Pratapgadhi** (supra), the Hon'ble Supreme Court after perusing the relevant extract of the poetry has observed in para-12 that the poem does not refer to any religion, caste or language and it does not refer to any persons belonging to any religion, therefore, by no stretch of imagination, does it promote enmity between different groups whereas in the present case, timings of the tweets of the petitioner are so crucial and worth considering inasmuch as the aforesaid tweets have been circulated immediately after the unfortunate incident dated 22.04.2025 at Pahalgam,

Jammu & Kashmir. The case diary as placed before us shows that there are so many tweets but some of them have been reproduced in this order that goes to show that the posts written by the petitioner are against the Prime Minister of India and Home Minister of India. Name of the Prime Minister of India has been used in a derogatory and disrespectful manner. In such comments, the petitioner has used religious angle, Bihar election angle accusing the Prime Minister by name and saying that the B.J.P. Government is sacrificing the life of thousands of soldiers for its vested interest pushing the country in a war with a neighbouring country.

26. Since the investigation is going on, therefore, we restrain ourselves to comment on the merits of the issue having expectation that fair, independent and impartial investigation is conducted and concluded strictly in accordance with law, without being influenced from any observation made herein above and the same may not affect the investigation in any manner whatsoever.

27. In view of what has been considered herein above, this writ petition is **dismissed** being misconceived.

28. The petitioner is directed to participate in the investigation, which is pending pursuant to the impugned FIR, and she shall appear before the Investigating Officer on **26.09.2025** at **11.00 a.m.** sharp to cooperate in the investigation and shall further cooperate in the investigation till filing of police report.

(Syed Qamar Hasan Rizvi,J.) (Rajesh Singh Chauhan,J.)
September 19, 2025
Reena/RBS-