



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 28 of 2026

Pankaj Kumar And Another

.....Petitioner(s)

Versus

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

.....Respondent(s)

Counsel for Petitioner(s) : Desh Deepak Singh, Nandini Verma
Counsel for Respondent(s) : G.A.

Court No. - 11

**HON'BLE ABDUL MOIN, J.
HON'BLE MRS. BABITA RANI, J.**

Heard learned counsel for the petitioner and learned AGA appearing on behalf of the respondents no. 1 & 2.

Issue notice to the respondent no. 3 returnable at an early date.

Steps be taken within a week.

All the respondents are granted four weeks time to file a counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List thereafter.

By means of the instant writ petition, the petitioner has raised a challenge to the First Information Report dated 17.12.2025 registered as Case Crime No. 0296 of 2025 under Sections 115 (2) & 117 (2) of B.N.S, 2023 at Police Station- Jankipuram District- Lucknow, a copy of which is annexure 1 to the writ petition.

Contention of the learned counsel for the petitioner is that for an incident as has been indicated in the impugned First Information Report, a complaint was filed earlier by the respondent no. 3 which has resulted in an Non Cognizable Report vide order dated 22.10.2025, a copy of which is annexure 7 to the writ petition.

Subsequent thereto, with respect to the same complaint, the impugned

First Information Report has been lodged.

Placing reliance on the provisions of Section 174 (2) of B.N.S.S, 2023, the contention is that once the information has been given to an office in charge of a police station of the commission within the limits of such station of a non-cognizable offence and the same has duly been recorded consequently, no police officer shall thereafter investigate of a non-cognizable case without the order of the learned Magistrate having power to try such case or commit the case for trial.

Contention is that once the Non Cognizable Report has already been recorded on 22.10.2025 and there being no order of the learned Magistrate to proceed in the investigation consequently, the respondents-authorities have patently erred in lodging the impugned First Information Report.

Having heard the learned counsel for the petitioner and having perused the records it emerges that a Non Cognizable Report for the same offence for which the impugned First Information Report has been filed was lodged and registered on 22.10.2025.

Section 174 (2) of B.N.S.S, 2023 itself provided that no police officer shall investigate a non-cognizable case without the order of the learned Magistrate.

There is no order of the learned Magistrate per which the authorities have been required to investigate the matter and consequently, *prima facie* there cannot be any occasion for lodging of the impugned First Information Report.

Considering the aforesaid, a *prima facie* case for interference is made out. Accordingly, until further orders of this Court, the impugned First Information Report dated 17.12.2025 registered as Case Crime No. 0296 of 2025 under Sections 115 (2) & 117 (2) of B.N.S, 2023 at Police Station- Jankipuram District- Lucknow, a copy of which is annexure 1 to the writ petition shall remain stayed.

Let a personal affidavit of the Principal Secretary (Home), Government of

Uttar Pradesh, Lucknow i.e the respondent no. 1 be also filed indicating that once there is a specific provision under the B.N.S.S, 2023 namely Section 174 (2), as to how despite registration of an Non Cognizable Report, the impugned First Information Report has been lodged and in case the said First Information Report is found against the provisions of the Code, 2023 as to why exemplary cost should not be imposed against the officers who have proceeded with lodging of the said First Information Report.

(Mrs. Babita Rani,J.) (Abdul Moin,J.)

January 7, 2026

Pachhere/-