AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

APPLICATION U/S 528 BNSS No. - 1980 of 2025

Kamalesh Agnihotri @ Kamal And 2 Others

... Applicant(s)

Versus

State Of U.P. Thru. Secy. Home Deptt. Lko. and Another

...Opposite Party(s)

Counsel for Applicant(s)	**:**	Shailendra Kumar Singh, Mohit Mishra, Suneel Kumar
Counsel for Opposite Party(s)	**:**	G.A., Sriniwas Bajpai, Viny Prakash Tiwari, Shanker Lal Pandey

Reserved: *04.02.2026*
Pronounced: *09.02.2026*

Court No.12

HON'BLE PANKAJ BHATIA, J.

J U D G M E N T

1. Heard Shri Mohit Mishra, learned counsel for the applicants; Shri V.K. Singh, learned Government Advocate assisted by Shri Bhanu Pratap Singh, learned AGA - I appearing for the State and Dr. L.P. Mishra, learned counsel alongwith Shri Sriniwas Bajpai and Shri Abhay Shukla, learned counsel(s) for respondent no.2.

2. Present application has been filed seeking to quash the Charge Sheet No.01 of 2025 Dated 25.07.2025 submitted in Case Crime No.392

of 2025, under Sections 308(2), 351(2), 352 of BNS, P.S. Sushant Golf City, District Lucknow alongwith summoning order and entire criminal proceedings of Case No.115214 of 2025 (State v. Kamal @ Kamlesh Agnihotri & Ors.).

3. The facts, in brief, are that the applicants and Opposite Party No.2 are residents of a society known as Celebrity Greens. The said society is inhabited by a substantial number of members who are the apartment owners. The society was formed by the residents of the society and was also duly registered. Applicant No.1 is the Secretary to the said society duly elected, and Applicant Nos.2 & 3 are President and Caretaker of the said society respectively. It is pleaded that the said society was formed after taking the NOC from the builder and has been constituted under Section 14 of the U.P. Apartment Act and works according to the provisions of the Act and the bye-laws. It is pleaded that the general body of the society holds regular meeting and actions are taken as per the bye-laws, regulations etc.

4. It is stated that in the board meeting held on 24.11.2024 the issue with regard to haphazard parking was taken up and guidelines were issued and the residents were allotted one slot of their choice for parking of their vehicles with an advice to the resident to park in the allotted parking space. The said welfare measure was taken to avoid obstruction in traffic movement within the colony. It was also decided that in the event of not following the guidelines, at the first instance advice would be issued to the residents and in case of repeat, vehicles will be locked and locks will be opened by giving warning and at the third instance, steps would be taken for levy of penalty of Rs.500/- as per the board meeting.

5. It is stated that Opposite Party No.2 was wrongly parking his vehicle which was opposed, as such, he lodged the FIR in question being FIR No.392 of 2025 (Annexure – 1) wherein it was alleged that the informant was a B.Tech and was an entrepreneur and social worker; it was

stated that he was a trustee of Bhavrao Devras Trust of Rastriye Swyamsevak Sangh (RSS) and was residing in the said apartment since 2022. It was stated that applicants were engaged in extracting money from the residents and threats were issued on 1st of May to the informant for levying a penalty of Rs.500/-. It was also stated that the applicants were recovering money from various persons after forming a gang and on account of non payment, harassment was being meted out to the residents. It was also stated that as per the information of the informant, there was no sanction for the said recoveries and even the receipts were not issued and thus, a request was made to lodge the FIR under Sections 308(2), 351(2), 352 of IPC.

6. Investigation was conducted by Investigating Officer Mr. Shiv Kant Tiwari. While investigating, the Investigating Officer recorded the statement of the informant and also prepared a site plan. He also recorded the evidences given by Opposite Party No.2 which are contained in Annexure – 8. The evidences collected was only in the form of statement of the informant wherein he stated that the Resident Welfare Association *(for short 'RWA')* was only a headless body without having any rights and has no rights to take any decision with regard to the management of the society etc. The same are on record as Annexure – 8. Other allegations were also levelled of not utilising the funds properly.

7. Statement of the informant is also on record as Annexure – 6 wherein it is stated that threats were being issued by RWA for improper parking of vehicles including that of the informant.

8. Statement of the applicants were also recorded under Section 180 of BNSS to the effect that the informant was habitual of wrongly parking his vehicle which was opposed by the residents and a Whatsapp message was also floated that the vehicle should be removed and information was also given that despite advice, vehicle was being wrongly parked and in case

the owner repeat the same, steps shall be taken for locking the vehicle. The said statements are on record as Annexures – 9, 10 & 11.

9. Based upon the said material, charge sheet came to be filed which is on record, on which the statements were referred including the statements under Section 180 BNSS of the all three accused and abruptly a conclusion was drawn that the applicant nos.1 & 2 had got the Jammers installed on the car and a demand of Rs.500/- was made for removing the lock. Based upon this material, a charge sheet came to be filed under Sections 308(2), 351(3), 352 IPC.

10. Based upon the said charge sheet, Chief Judicial Magistrate, Lucknow gook cognizance and summoned the applicants in Case No.115214 of 2025. Summoning order is on record as Annexure – 13.

11. Summoning order, on perusal, does not reflect any application of mind except that the charge sheet has been submitted, documents perused and there was sufficient material to proceed, and the summons were issued.

12. Challenging the said, present application has been filed.

13. Submission of learned counsel for the applicant is that the entire allegations even if treated to be gospel truth, do not amount to the offence under Sections 308(2), 351(2), 352 of BNS. It is further argued that the proceedings have been initiated at the instance of the informant only with a view to harass the duly elected members of the RWA and to browbeat the applicants which is also reflected from the description of the membership of the informant in the organization. It is further argued that the entire proceedings are malafide. It is argued that the charge sheet has been filed without investigating properly, no statement of any of the other members of the society was recorded, the resolution of the RWA was not even looked into, no material was recorded that any amount was charged.

14. It is also essential to notice that the wife of the same informant had filed a complaint on 07.06.2025 before the Additional Secretary under the U.P. Apartment Acct which was disposed off with direction to the society to work as per the judgment of the High Court in Writ Petition No.33826 of 2012 (M/s. Designarch Infrastructure Pvt. Ltd. & Ors. v. Vice Chairman, Ghaziabad Development Authority & Ors.). The said complaint filed by the informant and the order passed are contained in Annexures – 14 & 15.

15. In view of the said, it is argued that continuation of the proceedings are nothing but an abuse of process of law. It is also pleaded that challenging the FIR, Criminal Misc. Writ Petition No.5311 of 2025 was filed, however, after the filing of the charge sheet, the same has rendered infructuous. It is also stated that interim protection was also granted to the applicants in the said matter.

16. Learned counsel for respondent no.2 has filed a counter affidavit wherein it has been stated that the deponent was peacefully living in the society till *"kleptocracy type of management was thrust on him"* and the other society members are now defunct. It is stated that many other vehicles were stopped by putting lock and were allowed to be released on payment basis. It is further argued that the allocation of parking lots were also arbitrary and the residents were being harassed. It is also pleaded that the deponent and family was feeling small, pipsqueak. The exact statement is quoted herein below:

> *"4. ...Deponent and family was feeling small, pipsqueak. The egregious, bellicose orders were causing fear and resentment among residents. Extortion became routine affair. Last straw on capacity to endure hardship was when, while going for urgent work, deponent found car tyre jammed. The deponent and other society members made fervent request to alleged titular RWA, working like mafia, to not take law into hands but it was going in-vain giving mental tension. Therefore, upon finding no alternatives to tyranny, the deponent opted to file the FIR in question against the Petitioners as a last resort."*

Other allegations have also been levelled in the counter affidavit. The manner of handing over of project to the RWA is also pleaded in the counter affidavit.

17. It is argued by learned counsel for Opposite Party No.2 that the allegations would constitute an offence under Sections 308(2), 351(2) & 352 of BNS and thus, present application was liable to be dismissed. It was further argued that the informant was well within his rights to disclose his social status which include the membership of a trust run by RSS.

18. Learned AGA has also filed a counter affidavit reiterating the versions in the FIR and justifying the manner in which the investigation was carried out and with a prayer that the present application is liable to be dismissed as the investigation was fair and the charge sheet discloses the cognizable offence.

19. Learned counsel for the applicant has relied upon the observations made by this Court in the case of ***Sanjeev @ Kallu Sethiya v. State of U.P.*** passed in ***Criminal Misc. Bail Application No.18458 of 2022*** decided on **17.10.2022** with an emphasis from Paras 29 to 36 highlighting the importance of a fair investigation. The same read as under:

> *"29. The U.P. Police Regulation 107 and 108 detail the procedure required to be followed by the Investigating Officer as follows:-*
>
> > *107. An Investigating Officer is not to regard himself as a mere clerk for the recording of statements. It is his duty to observe and to infer. In every case, he must use his own exprt observations of the scene of the offence and of the general circumstances to check the evidence of witnesses, and in cases in which the culprits are unknown to determine the direction in which he shall look for them. He must study the methods of local offenders who are known to the police with a view to recognizing their handiwork, and he must be on his guard against accepting the suspicions of witness and complaints when they conflict with obvious inferences from facts. He must remember that it his duty to find out the truth and not merely to obtain convictions. He must not prematurely commit himself to any view of the facts for or against any person and though he need not go out of his way to hunt up evidence for the defence in a case in which he has satisfactory grounds for believing that an accused person is guilty, he must always give*

accused persons an opportunity of producting defence evidence before him, and must consider such evidence carefully if produced. Burglary investigations should be conducted in accordance with the special orders on the subject.

108. The first step of the Investigating Officer should be to note in the case diary prescribed by Section 172 of the Code of Criminal Procedure the time and place at which he has received the information on which he acts and to make in the diary a copy of the first information report. When beginning his investigation, he must note in the diary the time and place at which he begins. He should then inspect the scene of the alleged offence and question the complainant and any other person who may be able to throw light on the circumstances. At an early stage of the investigation, he should consult the village crime note-book to learn of any matter recorded there which may have a bearing on the case.

30. A perusal of the aforesaid regulations shows that for the Investigating Officer, the accused and the complainant are equal at the time of conducting investigation. He has to consider the case of both the parties and thereafter, arrive at a fair conclusion regarding the investigation into the allegations made against the accused. He is not required to simply prove that the allegations in the F.I.R are correct and should necessarily collect evidence to implicate the accused, justifying his implication. This was done when the country was under colonial rule but it appears that even after independence the police investigation is still the same. Its aim is only to justify the implication. Rarely the statements of the accused side are recorded by the investigating officers of police.

31. What is fair investigation has been considered by the Hon'ble Supreme Court in number of judgements, considered hereinbelow:-

1) State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222, at page 258 :

48. From this perspective, the function of the judiciary in the course of investigation by the police should be complementary and full freedom should be accorded to the investigator to collect the evidence connecting the chain of events leading to the discovery of the truth, viz., the proof of the commission of the crime,. Often individual liberty of a witness or an accused person are involved and inconvenience is inescapable and unavoidable. The investigating officer would conduct indepth investigation to discover truth while keeping in view the individual liberty with due observance of law. At the same time he has a duty to enforce criminal law as an integral process. No criminal justice system deserves respect if its wheels are turned by ignorance. It is never his business to fabricate the evidence to connect the suspect with the commission of the crime. Trustworthiness of the police is the primary insurance. Reputation for investigative competence and individual honesty of the investigator are necessary to enthuse public confidence. Total support of the public also is necessary.

2) Babubhai v. State of Gujarat, (2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336, at page 268 :

32. The investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the Investigating Officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The Investigating Officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The Investigating Officer "is not to bolster up a prosecution case with such evidence as may enable the court to record conviction but to bring out the real unvarnished truth". (Vide R.P. Kapur Vs. State of Punjab AIR 1960 SC 866; Jamuna Chaudhary & Ors. Vs. State of Bihar AIR 1974 SC 1822; and Mahmood Vs. State of U.P. AIR 1976 SC 69).

3) Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762, at page 792 :

48. What ultimately is the aim or significance of the expression "fair and proper investigation' in criminal jurisprudence? It has a twin purpose. Firstly, the investigation must be unbiased, honest, just and in accordance with law. Secondly, the entire emphasis on a fair investigation has to be to bring out the truth of the case before the court of competent jurisdiction. Once these twin paradigms of fair investigation are satisfied, there will be the least requirement for the court of law to interfere with the investigation, much less quash the same, or transfer it to another agency. Bringing out the truth by fair and investigative means in accordance with law would essentially repel the very basis of an unfair, tainted investigation or cases of false implication. Thus, it is inevitable for a court of law to pass a specific order as to the fate of the investigation, which in its opinion is unfair, tainted and in violation of the settled principles of investigative canons.

4) Amitbhai Anilchandra Shah v. CBI, (2013) 6 SCC 348 : (2014) 1 SCC (Cri) 309, at page 383 :

58.9. Administering criminal justice is a two-end process, where guarding the ensured rights of the accused under Constitution is as imperative as ensuring justice to the victim. It is definitely a daunting task but equally a compelling responsibility vested on the court of law to protect and shield the rights of both. Thus, a just balance between the fundamental rights of the accused guaranteed under the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. Accordingly, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences. As a consequence, in our view this is a fit case for quashing the second F.I.R to meet the ends of justice.

58.10. The investigating officers are the kingpins in the criminal justice system. Their reliable investigation is the leading step towards affirming complete justice to the victims of

the case. Hence they are bestowed with dual duties i.e. to investigate the matter exhaustively and subsequently collect reliable evidences to establish the same.

5) Manohar Lal Sharma v. Prinicipal Secy., (2014) 2 SCC 532 : (2014) 4 SCC (Cri) 1, at page 553 :

26. One of the responsibilities of the police is protection of life, liberty and property of citizens. The investigation of offences is one of the important duties the police has to perform. The aim of investigation is ultimately to search for truth and bring the offender to book.

27. Section 2(h) of the Code of Criminal Procedure (for short "the Code") defines investigation to include all the proceedings under the Code for collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by the Magistrate in this behalf.

28. In H.N. Rishbud, this Court explained that the investigation generally consists of the following steps : (AIR p. 201, para 5)

(1) Proceeding to the spot;

(2) ascertainment of the facts and circumstances of the case;

(3) discovery and arrest of the suspected offender;

(4) collection of evidence relating to the commission of the offence which may consist of the examination of :

(a) various persons (including the accused) and the reduction of statement into writing, if the officer thinks fit;

(b) the search of places and seizure of things, considered necessary for the investigation and to be produced at the trial;

(5) formation of the opinion as to whether on the materials collected, there is a case to place the accused before a Magistrate for trial, if so, take the necessary steps for the same for filing necessary charge-sheet under Section 173 Cr.P.C.

6) Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626 : (2014) 2 SCC (Cri) 384, at page 643 :

48. Undoubtedly, the essence of criminal justice system is to reach the truth. The underlying principle is that whilst the guilty must not escape punishment; no innocent person shall be punished unless the guilt of the suspect/accused is established in accordance with law. All suspects/accused are presumed to be innocent till their guilt is proved beyond reasonable doubt in a trial conducted according to the procedure prescribed under law. Fair, unbiased and transparent investigation is a sine quo non for protecting the accused. Being dissatisfied with the manner in which the investigation was being conducted, the father of the victim filed the petition seeking an impartial investigation.

7) Rajiv Singh v. State of Bihar, (2015) 16 SCC 369, at page 397 :-

79. The investigating agency as the empowered mechanism of the law enforcing institution of the State is entrusted with the solemn responsibility of securing the safety and security of the citizens and in the process, act as the protector of human rights. The police force with the power and resources at its disposal is a pivotal cog in the constitutional wheel of the democratic polity to guarantee the sustenance of an orderly society. It is usually the first refuge of one in distress and violated in his legal rights to seek redress. The police force, thus is bestowed with a sacrosanct duty and is undisputedly required to be impartial, committed and relentless in their operations to unravel the truth and in the case of a crime committed, make the offender subject to the process of law. The investigating agency, thus in the case of a probe into any offence has to maintain a delicate balance of the competing rights of the offenders and the victim as constitutionally ordained but by no means can be casual, incautious, indiscreet in its approach and application. A devoted and resolved intervention of the police force is thus an assurance against increasingly pernicious trend of escalating crimes and outrages of law in the current actuality.

80. As a criminal offence is a crime against the society, the investigating agency has a sanctified, legal and social obligation to exhaust all its resources, experience and expertise to ferret out the truth and bring the culprit to book. The manifest defects in the investigation in the case demonstrate an inexcusable failure of the authorities concerned to abide by this paramount imperative.

81. This Court, amongst others, in Amitbhai Anilchandra Shah vs. Central Bureau of Investigation and another (2013) 6 SCC 348, while underlining the essentiality of a fair, in-depth and fructuous investigation had observed that investigating officers are the kingpins in the criminal justice system and reliable investigation is a leading step towards affirming complete justice to the victims of the case. It was ruled that administering criminal justice is a two-end process, where guarding the ensured rights of the accused under the Constitution is as imperative as ensuring justice to the victim. It was held that the daunting task, though a compelling responsibility, is vested on the court of law to protect and shield the rights of both. That a just balance between the fundamental rights of the accused guaranteed under the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the Court was emphatically underlined. We are left appalled by the incomprehensible omissions of the investigating agency in the instant case and we would expect and require that the authorities in-charge of ensuring fair, competent and effective investigation of criminal offences in particular would take note of this serious concern of the Court and unfailingly take necessary remedial steps so much so that these observations need not be reiterated in future entailing punitive consequences.

8) Suresh Chandra Jana v. State of W.B., (2017) 16 SCC 466, at page 480 :-

> *34. The last aspect is regarding the defective investigation and prosecution. If a negligent investigation or omissions or lapses, due to perfunctory investigation, are not effectively rectified, the faith and confidence of the people in the law enforcing agency would be shaken. Therefore the police have to demonstrate utmost diligence, seriousness and promptness. [refer Ram Bihari Yadav v. State of Bihar & Ors., (1998) 4 SCC 517]. 35. The basic requirement that a trial must be fair is crucial for any civilized criminal justice system. It is essential in a Reportable society which recognizes human rights and is based on values such as freedoms, the rule of law, democracy and openness. The whole purpose of the trial is to convict the guilty and at the same time to protect the innocent. In this process courts should always be in search of the truth and should come to the conclusion, based on the facts and circumstances of each case, without defeating the very purpose of justice.*

32. The Hon'ble Supreme Court has held in number of cases that fair investigation, which precedes filing of charge-sheet, is a fundamental right under Article 21 of the Constitution of India. Therefore, it must be fair, transparent and judicious. A tainted and biased investigation leads to filing of a charge-sheet which is infact based on no investigation and therefore, the charge-sheet filed in pursuance of such an investigation cannot be held to be legal and in accordance with law. Some of such observations are as follows :-

1) Nirmal Singh Kahlon v. State of Punjab, (2009) 1 SCC 441 : (2009) 1 SCC (Cri) 523, at page 455:

> *28. An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation. When serious allegations were made against a former Minister of the State, save and except the cases of political revenge amounting to malice, it is for the State to entrust one or the other agency for the purpose of investigating into the matter. The State for achieving the said object at any point of time may consider handing over of investigation to any other agency including a central agency which has acquired specialization in such cases.*

2) Babubhai v. State of Gujarat, (2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336, at page 272 :

> *45. Not only fair trial but fair investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the court would ultimately result in failure*

of justice, the court must interfere. In such a situation, it may be in the interest of justice that independent agency chosen by the High Court makes a fresh investigation.

3) Azija Begum v. State of Maharashtra, (2012) 3 SCC 126, at page 128 :

12. In the facts and circumstances of this case, we find that every citizen of this country has a right to get his or her complaint properly investigated. The legal framework of investigation provided under our laws cannot be made selectively available only to some persons and denied to others. This is a question of equal protection of laws and is covered by the guarantee under Article 14 of the Constitution.

13. The issue is akin to ensuring an equal access to justice. A fair and proper investigation is always conducive to the ends of justice and for establishing rule of law and maintaining proper balance in law and order. These are very vital issues in a democratic set up which must be taken care of by the Courts.

33. This country has inherited the present police system from the British Government. The main objective of British rule was to maintain status quo by using the police force as effective weapon to put down any challenge to its authority by iron hand. The police had to take repressive measures on account of the directions of the British Government. The investigation was accordingly carried out keeping in view the direction of the government and their object of ruling this country. Charge-sheets were submitted accordingly which were not the result of free and fair investigation. The fundamental rights of the people of the country were not in existence and the Criminal Procedure Code was designed in a manner which was not in accordance with the rights of the people of this country before independence. The code no where clearly provides that the investigating officer shall necessarily record the statements of witnesses of both the sides, viz., the accused and the informant / complainants, while conducting the investigation into an alleged offence.

34. After India became independent, it became a welfare state from the police state of the Britishers. The legislations which were framed after independence were in conformity with the fundamental rights of the people of this country. In the welfare state, the role of the police became more difficult in view of deteriorating law and order situation, communal riots, political turmoil, student unrest, terrorist activities, increase in white-collar crimes, etc. The police force, in addition to the aforesaid new challenges, came under stress and strain. Long hours of duty in connection with law and order situation, V.I.P duty, etc., left the police with lesser time to properly investigate the cases. Under the pressure of work, police started mechanical investigation of the crimes entrusted to it for free and fair investigation. The investigating officer is subjected to pressure by the influential persons of society to give report as per their command. The influence of money in conducting investigation is quite evident and it is a very big hurdle in the free and fair investigation of a crime and case. It was suggested by number of Law Commission Reports that the investigation wing of the police should be separated from the law and order wing but it has not materialized as yet. The separation of investigation wing from law and order wing has its hazards. If they are separated it would be difficult to

control law and order situation time the mischief mongers and the criminals will not tear the law and order wing of the police, once it is clear to them but the investigation of the case after report is lodged will be done by different wing of police. This is the practical drawbak in separation of the wings of police at local level. The investigating officer is also under pressure of Senior Officers, who do not favourable see any departure from established practice of justifying implication of an accused by collecting evidence in this regard. They feel it safe to justify implication of an accused by submitting investigation reports against the accused, except in few cases, where they or their political patron is interested otherwise.

35. Therefore, it is clear that the Court has to be cautious in considering the bail applications filed by the accused before and after submission of charge-sheet. There are number of impediments in the way of Investigating Officer in submission of charge-sheet after free and fair investigation as considered hereinabove.

36. Right to liberty is sacrosanct and guaranteed under Article 21 of the Constitution of India. Under Article 14 of the Constitution of India, there is equal protection of law to everyone, informant/complainant and accused, alike. During investigation stage or during trial stage, "presumption of innocence of accused" is intact and it is so till he is convicted either under Section 255 Cr.P.C. (summons case), Section 248 Cr.P.C. (warrant case) or under Section 335 Cr.P.C. (sessions case). Only when he is convicted, presumption of innocence gets replaced by a judgement of conviction."

20. Learned counsel for the applicant also places reliance on the judgment of the Supreme Court in the case of ***Manik Taneja & Anr. v. State of Karnataka & Anr.*** passed in ***Criminal Appeal No.141 of 2015*** on ***20.01.2015*** with emphasis on Paras 13 to 16 to argue that no offence can be said to be made out under Section 351(3) of BNS, as no allegation of criminal intimidation was alleged. The said paragraphs are quoted herein under:

"13. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

"503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section."

14. A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

15. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.

16. Of course, in exercise of its jurisdiction under Section 482 Cr.P.C., the court should be extremely cautious to interfere with the investigation or trial of a criminal case and should not stall the investigation, save except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of offence and that continuance of the criminal prosecution would amount to abuse of process of the court. As noted earlier, the page created by the traffic police on the Facebook was a forum for the public to put forth their grievances. In our considered view, the appellants might have posted the comment online under the bona fide belief that it was within the permissible limits. As discussed earlier, even going by the uncontroverted allegations in the FIR, in our view, none of the ingredients of the alleged offences are satisfied. We are of the view that in the facts and circumstances of the case, it would be unjust to allow the process of the court to be continued against the appellants and consequently the order of the High Court is liable to be set aside."

21. Learned counsel for the applicant places reliance upon the judgment of the Supreme Court in the case of ***Beri Manoj v. State of Andhra Pradesh & Anr.*** passed in ***Criminal Appeal No.362 of 2026*** on ***20.01.2026*** with emphasis on Paras 5, 6 & 7 to argue that the offence under Section 352 of IPC is also not made out. The said paragraphs read as under:

"5. Having heard the learned counsel appearing for the parties and after bestowing our careful considerations to the rival contentions raised at the

Bar, we notice at the initial stage itself in the statement recorded under Section 161 of the CrPC of the prosecutrix for reasons best known has not even whispered of any threat having been posed by the appellant herein except to the extent of stating that she had gone to the appellant's house. However, after seven days, namely after much water having flown down the bridge, she gave her statement under Section 164 of the CrPC and improved her version as is evident from her statement itself which reads as under:

> *"Chandu tej's father, uncle and two aunts came there and threatened me stating "whatever happens I should talk in favour of Chandu tej, I should keep the blame on me, failing which I will be killed."*

6. In fact, we may quote with benefit the judgments of this Court in Naresh Aneja Vs. State of U.P., (2025) 2 SCC 604 and Sharif Ahmad Vs. State of U.P. (2024) 14 SCC 122, wherein it has been held that mere threats without intention to cause alarm do not constitute criminal intimidation under Section 506 of the IPC. In the instant case, as could be seen from the records, the prosecutrix improved her statement which came to be recorded under Section 164 of the CrPC alleging that "two aunts and an uncle threatened" her which is a clear improvement from the statement recorded under Section 161 of the CrPC. This contradiction in timing of events create a serious doubt in the prosecution's version or in other words, the appellant's name suddenly surfaced after seven days through a vague reference to "an uncle" and thereby further weakening the prosecution's case. Even otherwise, mere expression of words, without any intention to cause alarm cannot amount to criminal intimidation. Hence, we are of the considered view that the allegation in the prosecutrix statement recorded under Section 164 of the CrPC would be insufficient in law to proceed against the appellant for being prosecuted under Section 506 of the IPC.

7. That apart, we notice from the clear statement recorded under Section 164 of the CrPC that no intention of criminal intimidation was prima facie established since prosecution of a person for criminal intimidation requires clear intention to cause alarm, irrespective of whether the victim was alarmed or not. In the absence thereof continuation of the prosecution against the appellant by virtue of a vague reference to the expression "an uncle" cannot by itself would not disclose any offence. Vague allegations unsupported by prima facie cogent evidence cannot constitute offence indicated under Section 506 of the IPC. Last but not the least, the mere presence of a lawyer (appellant in the instant case) in his capacity of discharging professional duty of either giving advice or suggestion cannot amount to intimidation and this is foundational fact being conspicuously absent in the instant case, we are perforced to disagree with the contention of learned counsel for the complainant (victim) and the learned counsel appearing for respondent No.1 the State. In other words, we are of the considered view that contentions urged, grounds pressed into service by the learned counsel appearing for the appellant deserves to be accepted. Accordingly, it it accepted."

22. Learned counsel for the applicant also places reliance on the judgment of the Supreme Court in the case of ***Anukul Singh v. State of***

Uttar Pradesh & Anr.; 2025 INSC 1153 to argue that the present case is a fit case for quashing the proceedings. He emphasis on Paras 11.1 & 11.4 of the said judgment which read as under:

> *11.1. This Court in State of Haryana v. Bhajan Lal; 1992 SCC (Cri) 426 , at paragraph 102, laid down illustrative categories where quashing of proceedings is justified. These are:*
>
> > *"(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 Act concerned (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 Act concerned, 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."*
>
> *11.4. Nevertheless, an exception has been recognized where the defence relies upon unimpeachable, incontrovertible evidence of sterling quality – such as documents of undisputed authenticity – which ex facie demonstrate that continuation of criminal proceedings would be unjust and oppressive. This principle was recognized in Suryalakshmi Cotton Mills Ltd v. Rajvir Industries Ltd., (2008) 13 SCC 678, and followed in subsequent decisions."*

Emphasis was also placed on Paras 17, 18 & 19 of the said judgment, which read as under:

> *"17. This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In Indian Oil Corporation v. M/s. NEPC India Ltd.; (2006) 6 SCC 738 , it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:*
>
> > *"9. The principles, relevant to our purpose are:*
> >
> > *(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.*
> >
> > *(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*
> >
> > *(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.*
> >
> > *(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.*
> >
> > *(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.*

> *10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged."*

18. Similarly, in Inder Mohan Goswami and another v. State of Uttaranchal and others; AIR 2008 SC 251, it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In Ganga Dhar Kalita v. State of Assam; (2015) 9 SCC 647, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.

19. Most recently, in Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh and others; 2025 INSC 869, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:

> *"9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No.4 might have parted with some money in accordance with the oral agreement and it may be that the appellant – herein owes a particular amount to be paid to the Respondent No.4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.*
>
> *10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.*
>
> *11. The entire case is squarely covered by a recent pronouncement of this Court in the case of "Delhi Race Club (1940) Limited vs. State of Uttar Pradesh" reported in (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for*

mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition precedent. We fail to understand why the High Court should undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No.4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things but we refrain from observing anything further. If the Respondent No.4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs.25,00,000/- to the Respondent No.4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR along with the other material on record, if any. The High Court seems to have forgotten the wellsettled principles as enunciated in the decision of this Court in the "State of Haryana & Others vs. Bhajan Lal & Others" Reported in 1992 Supp.(1) SCC 335."

23. Learned counsel for the applicant also places reliance upon the judgment of this Court in ***Application U/S No.38781 of 2016 (Manmohan Krishna v. State of U.P. & Anr.), 2024:AHC:31717*** to press that the offence under Section 504 of IPC cannot be said to be made out.

He emphasised on Paras 28 to 32 of the said judgment, which read as under:

> *"28. He further submitted that the allegations made against the applicant under Section 504 IPC is not made out as to attract the provisions of Section 504 IPC. The relevant provision of Section 504 IPC is quoted herein for ready reference:*
>
> > *"504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*
>
> *29. The necessary ingredients for invocation of Section 504 are-(a) intentional insult, (b) insult may be such as to give provocation to the person insulted, and (c) the accused must intend to know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break public peace or to commit any other offence, in such a situation the ingredients of section 504 are satisfied. One of the essential elements constituting the offence is that the there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504.*
>
> *30. To buttress this argument, he has placed reliance on paragraph 13 of a judgment passed by Hon'ble the Supreme Court in the matter of Fiona Shrikhande vs. State of Maharashtra and another; AIR 2014 SC 957, which read as under:-*
>
> > *"Section 504 comprises of the following ingredients, viz., (a) intentional insult, (b) insult may be such as to give provocation to the person insulted, and (c) the accused must intend to know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break public peace or to commit any other offence, in such a situation the ingredients of section 504 are satisfied. One of the essential elements constituting the offence is that the there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504."*
>
> ***4th Argument***
>
> *31. Learned counsel for the applicant further submitted that applicant had been charged for the offence under Section 506 IPC, but the same is not*

attracted in the present case. Section 506 IPC is quoted hereunder for ready reference:

> *"**506. Punishment for criminal intimidation**.-Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;*
>
> ***If threat be to cause death or grievous hurt, etc.**-And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."*
>
> *32. He further submitted that there are three ingredients to attract Section 506 IPC. Firstly, there must be an act of threatening another person. Secondly, of causing injury to the person's reputation; or property of the persons threatened or to the person in whom the "threatened person is interested and Thirdly, the threat must be with the intent to cause alarm to the persons threatened or it must be to do any act, which is not legally bound to do or omit to do an act, which he is legally entitled to do."*

24. Learned counsel for the applicant lastly places reliance on the judgment of the Supreme Court in the case of ***Isaac Isanga Musumba & Ors. v. State of Maharashtra & Ors.; 2015 ALL SC 3483*** with emphasis on Para 3, which reads as under:

> *"3. We have read the FIR which has been annexed to the writ petition as Annexure P-7 and we find therefrom that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice & Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs.110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused, any amount was delivered to the accused by the complainants. If that be so, we fail to see as to how an offence of extortion as defined in Section 383, IPC is made out. Section 383, IPC states that whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits 'extortion'. Hence, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and an FIR for the offence under Section 384 could not have been registered by the police."*

25. Learned counsel for the Opposite Parties, on the other hand, places reliance on the judgment of the Supreme Court in the case of ***Central Bureau of Investigation v. Aryan Singh Etc.*** passed in ***Criminal Appeal***

Nos.1025 – 1026 of 2023 on ***10.01.2023*** to argue that the proceedings are not liable to be quashed in exercise of powers under Section 482 of Cr.P.C. / 528 of BNSS. He emphasises on Para 4.1, which reads as under:

> "*4.1 From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr.P.C., the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution / investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution / investigating agency. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under Section 482 Cr.P.C., the Court has a very limited jurisdiction and is required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not"."*

26. Reliance is also placed upon the judgment of the Supreme Court in the case of ***M/s Balaji Traders v. State of U.P. & Anr.; 2025 INSC 806*** to argue that the case for extortion is made out based upon the evidences collected. He places emphasis on Para 14 of the said judgment to impress that the power under Section 482 of Cr.P.C. should be exercised sparingly. The same reads as under:

> *"14. Thus, it can be said in terms of Sections 386 (an aggravated form of 384 IPC) and 387 IPC that the former is an act in itself, whereas the latter is the process; it is a stage before committing an offence of extortion. The Legislature was mindful enough to criminalize the process by making it a distinct offence. Therefore, the commission of an offence of extortion is not sine qua non for an offence under this Section. It is safe to deduce that for prosecution under Section 387 IPC, the delivery of property is not necessary."*

27. Reliance is also placed upon the judgment of the Supreme Court in the case of ***Dhananjay @ Dhananjay Kumar Singh v. State of Bihar & Anr.; 2007 AIR SCW 923*** wherein Section 383 was interpreted as under:

"Section 384 provides for punishment for extortion. What would be an extortion is provided under Section 383 of the Indian Penal Code in the following terms:

> *"383. Extortion:- Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion"."*

A bare perusal of the aforementioned provision would demonstrate that the following ingredients would constitute the offence :

> *1. The accused must put any person in fear of injury to that person or any other person.*
>
> *2. The putting of a person in such fear must be intentional.*
>
> *3. The accused must thereby induce the person so put in fear to deliver to any person any property, valuable security or anything signed or sealed which may be converted into a valuable security.*
>
> *4. Such inducement must be done dishonestly.*

A First Information Report as is well known, must be read in its entirety. It is not in dispute that the parties entered into transactions relating to supply of bags. The fact that some amount was due to the appellant from the First Informant, is not in dispute. The First Information Report itself disclosed that accounts were settled a year prior to the date of incident and the appellant owed a sum of about Rs.400-500 from Gautam Dubey."

28. In the light of the arguments and the case laws relied upon by the parties, it is essential to notice the provision of Section 308(1) & (2), Section 351(2) and Section 352 of the BNS, which are quoted herein under:

> ***"308. Extortion.-****(1) Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits extortion.*
>
> *Illustrations.*
>
> *(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.*
>
> *(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.*
>
> *(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.*
>
> *(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.*

(e) A threatens Z by sending a message through an electronic device that "Your child is in my possession, and will be put to death unless you send me one lakh rupees." A thus induces Z to give him money. A has committed extortion.

(2) Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

Section 351(1) & (2) of the BNS reads as under:

"351. Criminal intimidation.-*(1) Whoever threatens another by any means, with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.*

Explanation.-A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration.

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn Bs house. A is guilty of criminal intimidation.

(2) Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Section 352 of the BNS reads as under:

"Section 352. Intentional insult with intent to provoke breach of peace.- *Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*

29. From plain reading of the FIR, the statements as well as the charge sheet which includes only the statements of the informant as well as the applicants, neither there is any allegation of intentional putting any person in fear of any injury, or to any other, and thereby dishonestly inducing the person so put in fear to deliver to any person any property, or valuable security.

30. In the present case, the allegations were that the RWA was unauthorizedly charging Rs.500/- and it was stated that in case the vehicles are not removed Rs.500/- would be charged after putting in locks at the third instance.

31. No material exists that the applicants intentionally put the informant or any other residents in fear of any injury or any effort was made to dishonestly induce any resident or the informant to deliver to any person any property or any security. No amount was extracted or taken from the informant.

32. The ingredients of Section 352 of BNS even if all the material are treated to be gospel truth is not made out, as there is no allegation of any intentional insult whereby it provokes any person which is likely to cause him to break the public peace or to commit any other offence.

33. The allegation of criminal intimidation as defined under Section 351 of BNS is also not discerned from the material filed alongwith the charge sheet which only includes the statement of the informant as well as the applicants.

34. Thus, from the plain reading of the materials collected including the statement and forming a part of the charge sheet, even if admitted to be gospel truth, the same do not constitute any offence whatsoever under the Sections in which the applicants have been charged/summoned.

35. This Court cannot ignore the manner in which the investigation has been carried out in the present case. In terms of the statement given by the informant, allegation of extortion by RWA was made which was denied in the statements made by the applicants, thus, it was incumbent upon the Investigating Officer to have taken the statement of the residents, verify the resolution passed by the RWA including their bye-laws, to form an opinion whether the allegations alleged amounted to offence or not. There is no material that any amount was actually taken from the informant which is a *sine qua non* for extortion. The charge sheet was filed in a hurried manner only after recording the statement of the informant as well as the applicants; even the material given by the informant was not got cross checked. As per the records, no material exists in the form of statement of any residents that any threat was issued at any point of time

or any extortion was done. This Court has already emphasised the need for fair investigation as is evident from the observations made by this Court in the case of ***Sanjeev @ Kallu Sethiya (supra)*** as extracted above. None of the parameters laid down for fair investigation have been followed in the present case. The investigation is clearly half baked and appears to be under the influence of the office said to be held by Opposite Party No.2. A copy of this order shall be placed in the Annual Confidential Report of the Investigating Officer and a copy of this order shall be sent to the Director General of Police to take a decision as to whether the role of investigation can be entrusted on Mr. Shiv Kant Tiwari, Investigating Officer of the present case.

36. Thus, on the reasoning recorded above, this Court has no hesitation in holding that the entire FIR, Charge Sheet as well as summoning order are nothing but an abuse of process of law at the instance of a disgruntled resident against the duly elected members of the RWA.

It was proposed to be argued that the registration of the RWA has been cancelled. Irrespective of the said cancellation subsequently, the applicants were the duly elected members of the RWA and had taken decision based upon the resolution passed in the general body. The same could in no way be termed as ‘extortion’ as has been alleged and averred.

37. In view thereof, the entire proceedings of Case No.115214 of 2025 (State v. Kamal @ Kamlesh Agnihotri & Ors.) arising out of Case Crime No.392 of 2025, under Sections 308(2), 352, 351(2) of BNS, P.S. Sushant Golf City, District Lucknow as well as the Charge Sheet No.01 of 2025 dated 25.07.2025 are quashed.

38. ‘With great powers come great responsibility’. The Opposite Party No.2 has clearly not gained responsibilities with the great powers that have come his way as claimed by him. It will be open to the organization of which the informant claims to be a member to see whether the browbeating of their members to the common public is sanctioned in

favour of the Opposite Party No.2 owing to his office. *Prima-facie,* a highly disciplined and respected cultural organization like the RSS has been maligned and the membership has been misused in the present case by Opposite Party No.2, however, this Court is not well equipped to go any further with regard to the acts of Opposite Party No.2 in misusing the name of a respected cultural organisation in the manner in which it has been done.

39. Present application stands ***allowed*** in above terms.

Date: 09.02.2026 **[Pankaj Bhatia, J.]**

Nishant