



2026:AHC:54772

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 NO. - 34871 of 2024

Rohit Upadhyay

.....Applicant(s)

Versus

State of U.P. and
Another

.....Opposite Party(s)

Counsel for Applicant(s) : Dhirendra Kumar Srivastava
Counsel for Opposite Party(s) : G.A. Shashi Bhushan Mishra, Sunil
Kumar Singh

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Court No. - 78

HON'BLE AVNISH SAXENA, J.

1. Heard Sri Dhirendra Kumar Srivastava, learned counsel for the accused/applicant, Sri S.B.Singh, learned Advocate holding the brief appeared for the opposite party no.2 and Ms. Reena Gupta, learned AGA for the State. Perused the record.

2. The present application under Section 528 BNSS has been moved to quash the proceeding of Case No. 68572 of 2024 (State Vs. Rohit Upadhyay) arising out of Case Crime no. 17 of 2024, under Sections 506, 376, 384 IPC, P.S. Koirauna, District Bhadohi, pending in the court of learned Judicial Magistrate-II, Bhadohi at Gyanpur.

3. The prosecution as set out from the bare perusal of the FIR reveals that the victim being a married lady has lodged the first information report on 16.02.2024 for the incident of 16.02.2022 and subjected to repeated rape by the accused/applicant, who claimed to be an exorcist. In the grab of treatment of two years old son of victim, he has called the

victim in his house at 09:00 p.m. and gave Laddoo as 'Prasad'. After consuming the 'Prasad', the victim became unconscious and when she regained consciousness, she found her clothes open. She has complained the accused about his action, on which the accused has stated to have recorded her odd videos and photographs.

4. In the statement under Section 161 and 164 CrPC, the victim has stated to have been raped subsequently on being blackmailed that he made the videos and photographs viral.

5. Learned counsel for the accused/applicant has submitted that a false and frivolous case has been lodged by the victim against the accused, who is her neighbor at her parental home. There is enmity between the families, which led to the lodging of the FIR. Further submits that there is exaggeration in the statement of victim, who has initially made the FIR belatedly for the offence of disrobing her modesty, which later on improved to committing of rape on the victim. There is no indecent videos and photographs ever recorded by the accused/applicant. The applicant has given money to the family members of the victim, through Google Pay. Further submits that there was love relation between the accused/applicant and victim and the sexual relation between the two, which was consensual in nature. He, therefore, submits that the application be allowed. The charge sheet and the proceedings shall be quashed.

6. Learned AGA and learned counsel for the informant have opposed the application stating that the accused/applicant is an exorcist, who has exploited the situation, wherein the victim was subjected to rape by the accused/applicant, on practicing exorcism to treat her child. Further submits that the accused/applicant by means of supplementary affidavit has annexed some of the indecent videos and photograph, which he has made viral and subject matter of trial. It is further submitted that the victim is not aware about any money transaction entered into between the accused/applicant and her family members. Further submits that the victim went to Orissa to live with her husband, where the

accused/applicant has followed for seeking sexual favours by blackmailing her. This led to lodging of the FIR. Further submits that the application is devoid of merits and liable to be dismissed.

7. This Court has taken into consideration the rival submissions made by the parties and perused the record.

8. The point of consideration in the present case is whether the allegations made in the FIR and the statement of victim recorded under Sections 161 and 164 Cr.P.C. is prima faice sufficient to proceed with the trial or the same tantamount to misuse of the process of law.

9. The FIR lodged against the accused/applicant reveals that the accused/applicant practiced exorcism. The victim was called by the accused/applicant at his residence for treating the ailment of two years old son of the victim. The victim was given 'Prasad' with stupefied substance that led to her became unconscious. On regaining consciousness, she found herself with her clothes open. There is no love relations between the two, as is claimed by the accused/applicant but denied by the victim. The possession of indecent videos and photographs of the victim with the accused/applicant is reflected from the supplementary affidavit filed by the accused/applicant. It is a matter of trial that how the applicant is in possession of the same, but it prima facie substantiate the allegation of the victim made in the FIR and in her statement under Section 161 and 164 CrPC. There is an allegation that she was subjected to repeated rape by the accused/applicant. There is also the allegation that she was also offered to the friends of accused/applicant. Therefore, there is triable issue and prima facie case is made out against the accused/applicant for continuance of trial.

10. The scope of ambit of the powers of the High Court invoking under Section 482 CrPC or 528 BNSS are very wide, but should be exercised with circumspection and in rarest of rare and appropriate cases. This power do not confer arbitrary jurisdiction to act according to whims and caprice and is used to prevent the abuse of process of law and for procuring the ends of justice. This preposition of law is enunciated in the

cases of *Kurukshetra University Vs. State of Haryana (1977) 4 SCC 451* and *the State of Haryana Vs. Bhajan Lal*, reported in *1992 Supp(1) SCC 335*. In the case of *Som Mittal Vs. Government of Karnataka*, reported in *(2008) 3 SCC 574*, Hon'ble the Supreme Court has given an expression of 'rarest of rare case', while describing the scope of Section 482 CrPC. This view is consistently maintained by Hon'ble the Supreme Court till the present day, which is settled by 'en' number of judgments, latest are *Naresh Potteries Vs. Aarti Industries*, reported in *2025 SCC OnLine SC 18* and *Punit Beriwal Vs. State (NCT) of Delhi*, reported in *2025 SCC OnLine SC 983*.

11. Considering the legal principles, record and arguments this Court is of the opinion that there is ample material on record on the basis of which the trial could be proceeded against the accused/applicant. The case does not fit in the category of rarest of rate case. Thereafter, charge sheet as well as the proceedings cannot be quashed in the light of observation made here-in-above.

12. In view of the above, the Application under Section 482 CrPC is devoid of merit and accordingly *dismissed*.

(Avnish Saxena,J.)

March 18, 2026
Abhishek Sri.