

Court No. - 72

Case :- APPLICATION U/S 482 No. - 2136 of 2025

Applicant :- Harendra Bansal And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Nanhe Lal Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicants, learned counsel for the informant, learned A.G.A. for the State.

2. This application under Section 482 Cr.P.C. has been filed by the applicants to quash the charge-sheet dated 15.01.2024, summoning order dated 09.05.2025 as well as entire proceedings of Case No.7399 of 2023 arising out of Case Crime No.124 of 2023 (State vs. Randeep Bhatia & others), under Sections 147, 148, 149, 506, 307, 120-B I.P.C., P.S. Jarcha, District Greater Noida (Commissionerate Gautambuddh Nagar), pending in the Court of Additional Chief Judicial Magistrate-I, Gautam Buddh Nagar.

3. Learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the present case on account of previous enmity. It is alleged in the FIR that named accused persons having old enmity with the informant, pressurizing the informant to close the proceeding pending between them. On 22.06.2023 when he was going to visit Dadra, they fired with firearm, informant has not received any injury but they are threatening him. It is a no injury case and prima-facie no offence under section 307 I.P.C. is made out. Investigating Officer has not collected any material evidence to prosecute the applicants in the present case. Applicants and other co-accused persons challenged the FIR by way of filing Criminal Misc.Writ Petition No.11009 of 2023 (Amit @ Guddu and 7 others vs. State of U.P. and 3 others) and this Court by order dated 25.07.2023 stayed the further proceeding till submission of police report under section 173(2) Cr.P.C., applicants have not misused the bail granted by this court and cognizance and summoning by learned magistrate is without application of judicial mind. Learned counsel for the applicants next submits that in Para no.21 of the affidavit, it has been stated that the applicant no.1 (Harendra Bansal) is a practicing lawyer in district court.

4. Per contra, learned AGA and learned counsel for the informant have vehemently opposed the prayer of the applicants and submitted that on perusal of FIR, prima-facie offence under section 307 I.P.C. is made out against the applicants. Applicants fired with intention to kill the informant but due to good luck he has not received injury. Prima-facie, offence is made out against the applicants.

5. Learned AGA and learned counsel for the informant have placed reliance upon the judgment passed by the Apex Court in **Criminal Appeal No.3327 of 2024 (Shoyeb Raja vs. State of Madhya Pradesh & others)** wherein the

Court has held as follows:-

"14. The third criterion as in Kashirao (supra) could also arguably be met. Whether or not it is met, is a matter of determination at trial. The question of intention to kill or the knowledge of death in terms of Section 307 IPC is a question of fact and not one of law."

6. In **Manik B. Vs. Kadapala Sreyes Reddy and another, 2023 Live Law (SC) 642**, Hon'ble Apex Court has held as under:-

"6. Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial.

7. Such an exercise, in our considered view, is not permissible while exercising the jurisdiction under Section 482 Cr.P.C."

7. The grounds taken in the application reveal that many of them relate to disputed question of fact. This Court is of the view that it is well settled that the appreciation of evidence is a function of the trial court. This Court in exercise of power under Section 482 Cr.P.C. cannot assume such jurisdiction and put an end to the process of trial provided under the law. It is also settled by the Apex Court in catena of judgments that The impugned criminal proceeding against the applicants is abuse of the process of the Court and is liable to be quashed by this Court. the power under Section 482 Cr.P.C. at pre-trial stage should not be used in a routine manner but it has to be used sparingly, only in such an appropriate cases, where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings or where allegations made in First Information Report or charge-sheet and the materials relied in support of same, on taking their face value and accepting in their entirety do not disclose the commission of any offence against the accused. The disputed questions of facts and defence of the accused cannot be taken into consideration at this pre-trial stage.

8. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, Manik B. Vs. Kadapala Sreyes Reddy and another, 2023 Live Law (SC) 642, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192 and lastly Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

9. Considered the arguments raised by both the parties. From perusal of FIR and other material evidence, it is clear that there was intention to kill the informant and firearm used. From perusal of FIR and statement of the witnesses recorded during investigation, prima-facie discloses offence under aforesaid section is made out against the applicants. At this stage, it cannot be ascertained that who has made fire in the group of 16 persons. It also discloses that there was intention to kill the informant. No interference is warranted.

The present 482 application is hereby **dismissed** with the aforesaid observation.

8. However, considering the prayer that the applicant no.1 is practicing advocate in district court, it is directed that applicant no.1 (Harendra Bansal) shall surrender before the concerned court below within three weeks from today and in case applies for bail, the bail application shall be decided expeditiously by the courts below in accordance with law laid down by the Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another, reported in 2021 SCC OnLine SC 922.**

9. For the period of three weeks from today or till the time of surrender of the applicant no.1 (Harendra Bansal) before the Court below, whichever is earlier, no coercive action shall be taken against him.

Order Date :- 22.8.2025

SKD