

Court No. - 2

Case :- CRIMINAL MISC. WRIT PETITION No. - 5821 of 2025

Petitioner :- Smt. Vandana Srivastava (But Actual Name Is Smt. Vandana) And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And 2 Others

Counsel for Petitioner :- Pranshu Agrawal, Chandan Srivastava

Counsel for Respondent :- G.A.

Hon'ble Alok Mathur, J.

Hon'ble Shree Prakash Singh, J.

1. Heard Sri Pranshu Agrawal, learned counsel for the petitioners as well as learned A.G.A. for the respondents.

2. By means of present writ petition, following relief has been sought :-

"(A) Issue a writ, order or direction in the nature of certiorari, commanding the opposite parties for quashing the impugned F.I.R. (as contained in Annexure No. 1), registered at Police Station - Hazratganj, Lucknow at FIR / Crime No. 87/2025, U/s 108 B.N.S., with the consequential inquiry, investigation being conducted on the basis of the said F.I.R.

(B) Issue an appropriate writ, order or direction in the nature of Mandamus, commanding the opposite parties, for staying the arrest of the petitioner in connection with the impugned F.I.R. (as contained in Annexure No. 1), registered at P.S. - Hazratganj, Lucknow at FIR / Crime No. 87/2025, U/s 108 B.N.S.

(C) Issue any other writ, order or direction, which this Hon'ble Court deems fit and proper in the circumstances of the case."

3. It has been submitted by learned counsel for the petitioners that with regard to an incident occurred on 14.03.2025, pertaining to theft in their house, a written complaint was submitted to the Station House Officer, Police Station - Aliganj, Lucknow on 17.03.2025. In the said complaint it was stated that the deceased - Mahesh Nishad, who was working at the residence of the petitioners as Peon, was responsible for theft from the almirah kept in the residence of the petitioners for an amount of Rs.6,50,000/-.

4. It has been next submitted that though complaint was given

but first information report was never registered. It has been submitted that pursuant to the said complaint, the accused therein/deceased, had also admitted his guilt and an agreement was arrived at the Police Station on 18.03.2025, to return certain amount back to the petitioners.

5. Subsequently, by means of impugned first information report dated 02.04.2025, which has been authored by the wife of deceased Mahesh Nishad, it is stated that on 17.03.2025, allegations were levelled against the complainant's husband to have committed theft at the residence of the petitioners, subsequent to which Police had called him and took him, and he was released on the next date. Thereafter, number of phone calls were received by the deceased from the petitioners, where they had threatened him. It was further stated that the deceased Mahesh Nishad had pleaded his innocence with regard to allegation of theft, the petitioners continued to demand refund of the amount alleged to have been stolen by the deceased.

6. It is in the aforesaid circumstances that the husband of the complainant Mahesh Nishad committed suicide on 01.04.2025. The first information report further records that certain video and suicide note had also been made by the deceased. It is submitted by learned counsel for the petitioners that even if the allegations levelled in the first information report are believed to be correct, then also no case is made out against the petitioners under Section 306 IPC (now Section 108 of BNS). He further submits that whenever allegations under Section 306 IPC are levelled against any person, ingredients of Section 107 IPC (now Section 45 of BNS) are necessary to be substantiated.

7. It is further submitted by learned counsel for the petitioners that neither the act attributed to the petitioners has any connection/relation to the suicide committed by the deceased nor, is there any allegation indicated in the first information report to be of such intensity so as to leave no room to the deceased but to commit suicide.

8. Accordingly, it is submitted that law in this regard has been clarified by the Hon'ble Supreme Court in number of cases namely :- **Gangula Mohan Reddy Vs. State of Andhra Pradesh, 2010 (1) SCC 750; Prakash and Others Vs. The State of Maharashtra and Another, SLP (Crl) No. 1073 of 2023 (decided on 20.12.2024) and Patel Babubhai Manohardas and Others Vs. State of Gujarat, Criminal Appeal No. 1388 of 2014 (decided on 05.03.2025).** In all the aforesaid cases, law has been clearly clarified by the Apex Court and considering the facts and circumstances of the

present case, it cannot be said that ingredients of offence under Section 306 IPC (now Section 108 of BNS) are made out.

9. Learned A.G.A. has opposed the writ petition but does not dispute the aforesaid facts. He prays for some time to file counter affidavit.

10. Considering the rival submissions, it is noticed that only allegation levelled against the petitioners in the impugned first information report is with regard to the fact that the petitioners had filed a complaint in the Police Station on 17.03.2025, where the deceased named as accused who was working at the residence of the petitioners as Peon, was alleged to have stolen Rs.6,50,000/-. Subsequently, the deceased was called to the Police Station, Aliganj where he was released on the very next day. Only act attributed to the petitioners is of speaking to the deceased on mobile phone, but the communication is neither on record nor mentioned in the first information report which can indicate that it is the act of the petitioners threatening and coercing the deceased that he committed suicide.

11. Considering the aforesaid submissions it is pertinent to note that the act of instigation, in order to constitute an offence under Section 306 IPC (now Section 108 of BNS), is required to be of such an intensity, so as to push the deceased to such perplexity under which he has no choice, but, to commit suicide. Such instigation must also be in close proximity to the act and time of suicide. Accordingly, prima-facie we find that case for interference is made out by the petitioners that necessary ingredients are absent in the present case.

12. Accordingly, let counter affidavit be filed by learned A.G.A. within next four weeks. Two weeks thereafter is granted to the petitioners to file rejoinder affidavit.

13. List this case on 20.08.2025.

14. Till the next date of listing arrest of petitioners in pursuance to First Information Report / Case Crime No. 87 of 2025, under Section 108 of BNS, Police Station - Hazratganj, District - Lucknow, shall remain stayed.

Order Date :- 30.6.2025

A. Verma

(Shree Prakash Singh, J.) (Alok Mathur, J.)