



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 8259 of 2026

Raja Singh @ Raja Bhaiya

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.
And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Prateek Shrivastava, Dhananjay Patel
Counsel for Respondent(s)	:	G.A., Ashish Gautam, Shreya

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard learned counsel for the petitioner, learned A.G.A. for the State-respondents and Shri Paraspar Swagat, Advocate who appears for respondent No.4.
2. The respondents pray for and are granted two weeks' time to file counter affidavit(s) to which reply may be filed within next one week.
3. List thereafter.
4. By means of the present petition, the petitioner seeks quashing of the FIR No.478 of 2026 under Sections 356(2), 352 Bhartiya Nyaya Sanhita, 2023 (hereinafter referred to as 'the Sanhita, 2023'), 67-A of the Information Technology (Amendment) Act, 2008 (hereinafter referred to as the 'Act, 2008'), Police Stationi Kotwali City, Pratapgarh.
5. Contention of the learned counsel for the petitioner is that a perusal of the impugned FIR would indicate that the same has been lodged by the representative of the ex-Minister of the State Government. Further contention is that a perusal of the impugned FIR would indicate that certain media posts made by the petitioner along with other persons, have been found to be offensive and abusive and consequently the impugned FIR has been lodged.
6. The contention is that so far as the FIR lodged under Section 356(2) of the Sanhita is concerned, the same pertains to defamation. Placing

reliance on the judgment of the Hon'ble Supreme Court in the case of ***Subramaniam Swamy v. Union of India, Ministry of Law & Ors., (2016) 7 SCC 221***, the argument is that the Hon'ble Supreme Court has categorically held that, in a case of criminal defamation, neither can an FIR be filed nor can a direction be issued under Section 156(3) Cr.P.C., and the proceedings have to be initiated by way of a complaint by the person aggrieved.

7. The contention is that once the Hon'ble Supreme Court has categorically held that no FIR can be filed in this regard and that proceedings can be initiated only by **the person aggrieved**, the lodging of the FIR straightaway by the representative of the concerned ex-Minister cannot be said to be in accordance with law.

8. So far as Section 67A of the Act, 2008 is concerned, the argument is that the same pertains to the punishment for publishing or transmitting material containing sexually explicit acts, etc., in electronic form.

9. The argument is that a perusal of the impugned FIR would indicate that there are no allegations of any sexually explicit material having been transmitted by the petitioner along with the others in electronic form.

10. In this regard, reliance has been placed on the judgment of the Hon'ble Supreme Court in the case of ***Apoorva Arora & Anr. v. State (Govt. of NCT of Delhi) & Anr., (2024) 6 SCC 181*** to contend that the Hon'ble Supreme Court has held that Section 67A of the Act, 2008 would be attracted where the electronic material contains a sexually explicit act or conduct and mere vulgarity, profanity, or objectionable language, in the absence of such sexually explicit material, does not by itself attract Section 67-A of the Act, 2008.

11. The contention is that a perusal of the impugned FIR only indicates that certain abuses were hurled on social media, and there is no averment regarding any sexually explicit material having been circulated consequently mere profanity or objectionable language would not attract an offence under Section 67-A of the Act, 2008.

12. So far as Section 352 of the Sanhita, 2023 is concerned, the

contention is that, apart from the same being a non-cognizable offence, another aspect of the matter is that Section 352 of the Sanhita, 2023 is very specific.

13. For the sake of convenience, Section 352 of the Sanhita, 2023 is reproduced below:

“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.”

14. From a perusal of Section 352 of the Sanhita, 2023, it emerges that 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 commit any other offence, would be punished.

15. A bare reading of Section 352 of the Sanhita, 2023 *prima facie* indicates that the person who has been insulted by such utterances is the aggrieved person for the purpose of lodging the FIR. In the instant case, the FIR has been lodged by the representative of the person against whom the said alleged insults were intended. The Court is *prima facie* of the view that the FIR could not have been lodged by the representative of the said person, inasmuch as it is the person who has been insulted who ought to have lodged the FIR indicating that he had been provoked by such utterances.

16. Keeping in view the aforesaid discussion, *prima facie* a case for interference is made out. As such until further orders, impugned FIR shall remain stayed.

17. This case shall not be treated to be tied up/part heard to this Bench.

August 20, 2026/prateek

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)