



2026:AHC-LKO:6201

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 171 of 2025

Madhukar Sharma

.....Applicant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Home
Lko And Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Anshul Verma
Counsel for Opposite Party(s) : G.A.

CONNECTED WITH

APPLICATION U/S 482 No. - 735 of 2025

Sanjay Singh

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And
Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Kiran Singh, Himanshu Suryavanshi
Counsel for Opposite Party(s) : G.A.

Court No. - 12

HON'BLE PANKAJ BHATIA, J.

1. Since both the cases arise out of same FIR, they are being decided by this common order.
2. Heard Shri Ali Bin Saif and Shri Anshul Verma, learned counsel(s) for

the applicant in Application U/S 482 No.171 of 2025 and Shri Himanshu Suryavanshi, learned counsel for the applicant in Application U/S 482 No.735 of 2025.

Heard Shri V.K. Shahi, learned A.A.G. assisted by Dr. V.K. Singh, learned G.A., Shri Bhanu Pratap Singh, learned A.G.A. - I and Shri Arun Kumar Verma, learned A.G.A. for the State and perused the record.

3. In terms of the FIR it was alleged that on 15.02.1991 when the informant was on duty in front of Vidhan Sabha at Gate No.1 the accused allegedly named in the FIR came alongwith 30 - 40 people and started creating ruckus and wanted to open the door and wanted to enter inside the Vidhan Sabha Parishar. It was also stated that some of the persons climbed the boundary wall and entered inside the premises and 25 - 30 people went out of the premises after breaking things. It was stated that some of the persons were apprehended also and the rest fled away. It was also alleged that apart from trying to enter inside the Vidhan Sabha premises, the said persons also broke certain windshields and lights etc., of the vehicle standing, with an intent to breach the peace. With the said allegations, FIR in question was lodged.

4. After investigation, documents reveal that, a charge sheet came to be filed under Sections 147, 353, 452, 427 of IPC read with Section 7 of Criminal Law (Amendment) Act and Section 2 of Prevention of Damages to Public Property Act. The said charge sheet came to be filed on 06.02.1992.

5. Perusal of the order sheet thereafter reveals that cognizance was taken on the basis of charge sheet, however, as per the order sheet it is revealed that not even one witness has been examined so far and even all the accused have not been served. A perusal of the charge sheet also reveal that all the witnesses proposed to be relied upon by the prosecution are the officers on duty - most of whom have retired.

6. In the light of the said, present application has been filed seeking quashing of the proceedings mainly on the ground that prolonged trial has resulted in violation of rights enshrined by virtue of Art. 21 of the Constitution.

7. It is also argued that the entire litigation is a futile exercise as neither the witnesses are present and in some cases, even the accused have died, and thus, the entire exercise is also a drain on the precious resources of the State without serving any useful purpose. It is further argued that even if all the allegations are treated to be correct, no material exists as against the applicants to implicate him and try him for an offence under Sections 147, 353, 452, 427 of IPC as no detail of the property allegedly damaged, has been given in the charge sheet also. Thus, based upon the said submission, proceedings are sought to be quashed.

8. Reliance is placed upon by the applicants on the following judgments:

1. Hussainara Khatoon and ors. v. Home Secretary, State of Bihar; (1980) 1 SCC 81
2. Abdul Rehman Antulay and Ors. v. R.S. Nayak and Ors.; (1992) 1 SCC 225
3. Chandrakant Tripathi v. State of U.P.; 2025 AHC : 4621
4. Dr. Meraj Ali and Anr. v. State of U.P. & Anr.; Application U/S 482 No.11924 of 2022, Dated 12.09.2022
5. Greik Xavier v. Sub Inspector of Police & Ors.; Crl. MC. No.149 of 2023
6. Binod Bihari Sethy v. State of Odisha; CRLMC No.112 of 2020, Dated 03.01.2022
7. Hari Singh & Anr. v. State of Rajasthan; S.B. Criminal Misc (Pet.) No.8867/2024, Dated 03.02.2025

9. In the light of the allegations referred to in the application, this Court had taken notice of the huge amounts of litigations pending which are apparently futile because of the passage of time and unavailability of the witnesses, etc. The Court was of the view that it is unnecessary draining the State resources and detailed orders to that effect were passed by this Court on various dates. The Court also noticed the submission of the State Counsel(s) to the effect that the State on its own level is trying and is contemplating creation of a policy for withdrawing these kinds of stale cases which have outlived their utility and have no chances of prosecution.

10. In terms of the said order passed by this Court, an affidavit has been filed before this Court to the effect that after considering the policies framed by various States, the State of Uttar Pradesh has constituted a committee headed by Learned Additional Advocate General for issuing directives for efficient and effective management of stale/futile cases by the State Government which is in furtherance of the directives to this effect given by Government of India.

11. It is also informed at the Bar by learned A.A.G. that the three member committee is contemplating various measures and is in *seisin* for formulating a case management policy to eliminate the futile litigations pending across the State, however, no such decision has been taken so far and a request has been made with an assurance that there is likelihood of some decision being taken within a period of four weeks or as soon as possible.

12. With regard to the present case, submission of learned State Counsel(s) is that the allegations in the FIR were investigated and a charge sheet was filed, however, the State is not in a position to deny that most of the witnesses were police officers on duty and have retired.

13. My attention is also drawn to the fact that even the accused were not present as is reflected from the order sheet which is also the cause for delay. The order sheet also reveals a sad story where the accused could not even be served and on various occasions warrants were issued, however, the fact remains that the trial has continued to lag since the year 1994 till the year 2024 when the present application was filed seeking quashment of the proceedings.

14. It is relevant to notice the Sections in which the charge sheet has been filed.

Sections 146 & 147 of IPC read as under:

"146. Rioting.—Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Punishment for rioting.—Whoever is guilty of rioting, shall be punished

with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Sections 351 & 353 of IPC are quoted herein below:

"351. Assault.—Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

353. Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Section 427 of IPC is quoted herein below:

"427. Mischief causing damage to the amount of fifty rupees.—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Sections 442 & 452 of IPC read as under:

"442. House-trespass.—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

452. House-trespass after preparation for hurt, assault or wrongful

restraint.—Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

- 15.** On perusal of the allegations contained in the FIR as well as charge sheet and the material collected, *prima-facie*, the material to suggest the use of violence by an unlawful assembly in prosecution of a common object of such assembly is apparently missing in the FIR as well as in the evidences collected alongwith the charge sheet. Thus, the prosecution of the applicants under Section 147 of IPC apparently based upon the material cannot be said to be made out.
- 16.** Similarly, for trying the applicants under Section 353 of IPC, no material exists in the charge sheet to suggest the assault or use of a criminal force to deter the public servant from discharge of his duty, as the material to substantiate assault or use of criminal force is absent from the charge sheet and even in the FIR.
- 17.** With regard to the offence alleged under Section 452 of IPC, on plain reading of the definition of 'house-trespass' as defined under Section 442 of IPC, it is essential that the building which is said to be trespassed should be used as a human dwelling or is a place for worship or in the custody of the property. However, in the present case, allegedly, the applicants tried to enter Vidhan Sabha Parisar.
- 18.** With regard to the other allegation to implicate the applicants under Section 452 of IPC, preparations for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint are a prerequisite for convicting an accused under Section 452 of IPC. In the FIR as well as the charge sheet, there are no allegation that any preparations were made which are *sine qua non* for punishing a person under Section 452 of IPC.
- 19.** Similarly, the material to implicate the applicants under Section 427 of IPC is not justified inasmuch as there is no material in the charge sheet

as to which property was damaged; no details of the property allegedly damaged amount to more than fifty rupees is evident from any of the documents contained in the charge sheet, thus, on plain reading of the FIR and the charge sheet, the material to punish the applicants in the said sections is apparently missing.

20. Apart from the same, the delay in trial is adversely affecting the rights of a speedy trial vested by virtue of Art. 21 of the Constitution and on that ground also, the proceedings are liable to be quashed.

There is yet another angle: the continuation of trials which are eventually to lead to futile exercise is evident from the fact that the only witnesses proposed to be examined in terms of the charge sheet are police officer who are either retired or are not present, thus, continuation of these proceedings is a futile exercise.

21. Thus, on all three grounds i.e. absence of any material to prosecute the applicants under the charged Sections, the inordinate delayed trial as well as the futility of the litigation, entire proceedings of Case No.1214 of 1994 arising out of Case Crime No.151 of 1991, under Sections 147, 353, 452, 427 of IPC, Section 7 of Criminal Law (Amendment) Act and Section 2 of Prevention of Damage to Public Property Act, P.S. Hazratganj, District Lucknow are liable to be quashed and are accordingly quashed.

22. As regards the directions given by this Court with regard to formulation of a policy, needless to add that continuation of these kind of proceedings across the State are leading to waste of the precious resources available with the judiciary. It is common knowledge that the judiciary is starved of the resources to meet the growing explosion of litigations. Continuation of these futile litigations is adding the otherwise burden on the judiciary. As the objective of the committee is very laudable, it is expected that the committee constituted by the State would come up with effective solution to weed out the futile litigations pending across the State so that the efficiency with which the judiciary should function is restored and the deadwood is chiseled off from the overgrowing dockets of the District Courts.

23. Needless to add that the State Government would act in furtherance to the suggestions given by the committee to chop off the deadwood of stale/futile litigations pending in various Courts.

24. Present applications stand *allowed* in above terms.

(Pankaj Bhatia,J.)

January 28, 2026

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