



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 119 of 2026

Reserved on: 3.7.2026

Date of Decision: 17.7.2026.

Vivek Kumar & ors. Petitioners

Versus

State of HP & anr. Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioners : M/s Arjun Sheoran and Heena Chauhan, Advocates.

For Respondent No.1 : Mr Lokender Kutlehria, Additional Advocate General.

For Respondent No.2 : Ms Dhanwanti, Advocate.

Rakesh Kainthla, Judge

The petitioners have filed the present petition for quashing of FIR No. 173 of 2023 dated 15.06.2023, registered at Police Station, Nalagarh, District, Solan, H.P. for the commission of an offence punishable under Section 295A read with Section 34 of the Indian Penal Code, (IPC) and consequential proceedings

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

arising out of it pending before learned Additional Chief Judicial Magistrate, Nalgarh, District Solan, H.P. (learned Trial Court).

2. Briefly stated on the facts giving rise to the present petition are that Sant Rampal Maharaj and his followers Shiv Kumar, Dharam Singh, Lal Chand, Sandeep Kumar, Bihari Lal, Hans Raj, Ramji Dass, Vivek Kumar and other persons were selling the books containing defamatory allegations against Hindu religion named Hindu Dharam Mahaan, Geeta Tera Gyan Amrit, Kabir Parmeshwar, Jeene Ki Raah, Gyan Ganga etc. The informant purchased the books. He found that the book called Hindu Dharma Mahan contained defamatory material against Hindu Gods and Saints. He reported the matter to the police. The police registered the FIR for the commission of an offence punishable under Section 295A of the IPC, and seized the books. It was found that Sant Rampal had written some books which were being distributed by Purshotam Dass, Krishan Singh, Satish Chand, Hawa Singh and Basant Singh. Krishan Singh, Satish Chand and Hawa Singh had died, and the proceedings abated qua them. The police recorded the statements of the witnesses as per their version and filed a charge sheet before the Court after the completion of the investigations.

3. Being aggrieved by the registration of the FIR and initiation of the proceedings, the petitioners have filed the present petition for quashing of the FIR and the proceedings arising out of it. It is submitted that an offence punishable under Section 295A of the IPC requires the previous sanction of the Central or the State Government. No sanction has been obtained in the present case, and the proceedings could not have been initiated against the petitioners. The charge sheet relies upon isolated sentences and descriptions appearing in certain pages of the book. The allegations pertain to criticism of Hindu Idol worship, pilgrimage practices, ritualistic devotion and theological narratives. It was nowhere mentioned that the books were distributed with the intent to outrage religious feelings or insult religious beliefs. The secularism enshrined in the Constitution treats all religions alike and displays a benevolent neutrality towards them. The allegations in the FIR and the charge sheet do not constitute the commission of any cognizable offence. Hence, it was prayed that the FIR and consequential proceedings arising out of it be quashed.

4. The petition is opposed by filing a status report reproducing the contents of the charge sheet. It was asserted that

a letter was written to District Magistrate Solan on 13.06.2026 for obtaining the prosecution sanction.

5. I have heard M/s Arjun Sheoran and Heena Chauhan, learned counsel for the petitioners, Mr Lokender Kutlehria, learned Additional Advocate General, for respondent No.1/State and Ms Dhanwanti, learned counsel for respondent No.2.

6. Mr Arjun Sheoran, learned counsel for the petitioners, submitted that allegations made in the FIR and the charge sheet do not constitute the commission of any cognizable offence. The informant had picked up stray sentences from the books out of context. The books were widely available, and their distribution does not amount to the commission of any offence. No sanction was obtained, and the letter was written for sanction after the institution of the present proceedings before the Court. Hence, it was prayed that the present petition be allowed and the FIR and consequential proceedings arising out of it be quashed. He relied upon the following judgments in support of his submissions: -

- (i) *Manoj Rai Vs. State of M.P. (1999) 1 SCC 728;*
- (ii) *Acharya Rajneesh Vs. Naval Thakur (1989) SCC OnLine HP 68;*
- (iii) *Swaraj alias Raj Shrikant Thackrey Vs. State & ors. (2015) SCC OnLine Del 11986;*

- (iv) *Prabhu Chawla Vs. State of Maharashtra* (W.P. No. 2337 of 2018;
- (v) *Mahesh Banwari Shahu & ors. Vs. State of Maharashtra & anr.* (Cr. W.P. No. 69 of 2026;
- (vi) *Ramji Lal Modi Vs. State of U.P.* AIR 1957 SC 620;
- (vii) *Mahendra Singh Dhoni Vs. Yerraguntla Shyamsundar & Anr.* (2017) 7 SCC 760;
- (viii) *Mukesh & ors. Vs. State of Uttar Pradesh & ors.* (Crl. Appeal No. 4910 of 2024;
- (ix) *D. Devaraja Vs. Owais Sabeer Hussain* (2020) 7 SCC 695; and
- (x) *Dr Bharam Singh Vs. State of Uttaranchal* (2010) SCC Online Utt 2276;

7. Mr Lokender Kutlehria, learned Additional Advocate General, for respondent No.1/State submitted that the FIR and the charge sheet specifically mentioned that the books were being distributed to hurt the sentiments of Hindus. The books contained defamatory material against the Hindu Gods and *prima facie* disclosed the commission of a cognizable offence. He conceded that a sanction has not been obtained. He submitted that a letter has been written to the District Magistrate for obtaining the sanction, and the proceedings would be regularised after obtaining the sanction. Hence, he prayed that the present petition be dismissed.

8. Ms Dhanwanti, learned counsel for respondent No.2, submitted that the State is free to initiate the proceedings after getting the sanction. She relied upon the following judgments in support of her submissions: -

- (i) *Pramodh Hanumantharao Mutalok Vs. State of Karnataka* 2025:KHC:10676;
- (ii) *Ranjanni Gaur Vs. State of Punjab & anr.* 2026:PHHC:088828;
- (iii) *Rajkumar Yadav @ Raj Kumar Yadav @ Rajkumar Rao Vs. State of Punjab & anr. a/w connected matters Cr.MP(M) Nos. 39247 of 2025, 56441 of 2025 and 56640 of 2025, decided on 29.5.2026*
- (iv) *K. Sachin Vs. State of Karnataka*, 2026:KHC:3310; and
- (v) *National Investigation Agency, New Delhi, vs. Owais Amin @ Cherry & ors.* 2024INSC447.

9. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

10. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in *B.N. John v. State of U.P.*, 2025 SCC OnLine SC 7 as under: -

“7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in *State of Haryana v. Ch. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) *Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused.*

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) *Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a*

Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable based on which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings, and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to a private and personal grudge.” *(emphasis added)*

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.

In clause (1), it has been mentioned that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

11. This position was reiterated in *Ajay Malik v. State of Uttarakhand*, 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby preempting the Prosecution from building its case before the Trial Court. The grounds for quashing, *inter alia*, contemplate the following situations : (i) the criminal complaint has been filed with *mala fides*; (ii) the FIR represents an abuse of the legal process; (iii) no *prima facie* offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335).

12. A similar view was taken in *Rajendra Bihari Lal v. State of U.P.*, 2025 SCC OnLine SC 2265, wherein it was observed:

“70. The aforesaid decisions of this Court make it clear that where the High Court is satisfied that the process of any court is being abused or likely to be abused or that the ends of justice would not be secured, it is not only empowered but also obligated under the law to exercise its inherent powers. The provision does not confer any new power on the High Court but rather saves the power which the High Court already possesses, from before the enactment of the legislation, by reason of its very existence. In exercise of its power, it would be legitimate for the High Court to quash any criminal proceedings if the High Court finds that the initiation or continuation of it may lead to abuse of process of court, and quashing of the proceedings would serve the ends of justice.”

13. The present petition is to be decided as per the parameters laid down by the Hon’ble Supreme Court.

14. Section 196 of the Code of Criminal Procedure (CrPC) provides that no Court shall take cognisance of any offence punishable under Chapter VI or Section 153A, Section 295A or Section 505 (1) of IPC, except with the previous sanction of the Central Government, the State Government or of the District Magistrate. Thus, it is apparent that the obtaining of the sanction from the District Magistrate, the Central Government or the State Government is necessary before launching the prosecution. It was held by this Court in *Acharya Rajneesh of Bombay Vs. Naval Thakur and others* 1989 SCC Online HP 68, that the Court cannot

take cognisance of the commission of an offence punishable under Section 295A of IPC without the sanction. It was observed:

6. Section 295-A of the Penal Code has been intended to respect the religious susceptibilities of persons of different religious persuasions or creeds. Courts have got to be very cautious in such matters and to pay due regard to the feelings and religious emotions of different classes of persons with different beliefs, irrespective of the consideration whether or not they share those beliefs, or whether they are rational or otherwise in the opinion of the Court (see 1962 (2) *Cri LJ 564, State of Mysore v. Henry Rodrigues*). The important ingredient of this provision brought into existence by the Criminal Law (Amendment) Act, 1927, is that the intention of the accused in outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, should be deliberate and malicious. A simple and innocent expression of opinion, may be an outburst while making a speech, will not bring the act within the parameters of this provision. The Court has to examine and understand the matter from all the facts and circumstances brought before it.

7. This offence is of a serious nature. Therefore, rightly, S. 196 of the Code of Criminal Procedure requires prior sanction of the Government to institute such proceedings. In view of this provision (S. 196 of the Code of Criminal Procedure), it can very safely be said that prior sanction by the Government is a sine quanon for initiating proceedings under S. 295-A of the Penal Code and failure to do so means that the court has no jurisdiction to entertain and continue with such proceedings. Such a situation arose before the High Court of Gujarat in 1981 *Cri LJ 113 (Shalibhadra Shah v. Swami Krishna Bharati)* wherein A.M. Ahmadi, J. (as he then was) dealt with the matter quite comprehensively and exhaustively and came to the conclusion that prior sanction for initiating a complaint

under S. 295-A of the Penal Code is a mandatory requirement. I, respectfully, accept the reasons of the learned Judge in this case and seek assistance to arrive at the same conclusion in this matter and hold that in the absence of a sanction, the complaint is not maintainable, and the court has no jurisdiction to entertain and proceed with the same.

15. Similar views were taken in *Manoj Rai* (supra), *Swaraj alias Raj Shrikant Thackrey* (supra), *Prabhu Chawla* (supra) and *Mahesh Banwari Shahu & ors.* (supra).

16. In the present case, the sanction has not been obtained, and the status report mentions that a letter has been written to the District Magistrate for obtaining the sanction on 13.06.2026. Therefore, the cognisance of the offence by the learned Trial Court is without jurisdiction and liable to be quashed.

17. It was submitted that the contents of the FIR do not disclose the commission of any cognizable offence. This submission cannot be accepted. It was specifically mentioned in the FIR and the charge sheet that the books were seized, and they were found to contain defamatory material against Hindu Gods and Saints. It was submitted that the remarks were justified. This submission will not help the petitioner. The police have seized the books, and it would be for the learned Trial Court to go

through them and determine whether these remarks were justified or not. *Prima facie*, making the defamatory remarks against the Hindu Gods and Saints who are revered by Hindus can lead to an inference that these were made with the intent to outrage the religious beliefs of the class of citizens of India by insulting their religion and religious beliefs. Thus, it is impermissible to quash the FIR at this stage.

18. It was submitted that the people have a right to freedom of speech and expression. However, such a right is not absolute and is subject to the public order. Therefore, no protection can be claimed by the petitioners.

19. It was submitted that the books were available in the public domain and their circulation does not constitute any offence. This is a matter of proof, and it will be open to the petitioners to prove before the Court that books were being circulated widely, and nothing is required to be said by this Court at this stage.

20. No other point was urged.

21. In view of the above, the present petition is partly allowed, and the proceedings pending before the learned

Additional Chief Judicial Magistrate, Nalgarh, District Solan, H.P., are ordered to be quashed.

22. However, this order will not prevent the State from instituting the fresh proceedings after obtaining the sanction, if otherwise permissible under the law. The petitioners shall be at liberty to raise all the pleas before the learned Trial Court if any such charge sheet is filed.

23. The observations made hereinbefore shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

17th July, 2026
(Chander)