



**HIGH COURT OF JUDICATURE AT ALLAHABAD
MATTERS UNDER ARTICLE 227 No. - 1268 of 2026**

Anuj Kumar Chaudhary And Another

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashutosh Kumar Sand
Counsel for Respondent(s)	:	Deepak Singh, G.A., Irshad Ahmad, Mohammad Khalid, Syed Shahnawaz Shah

Along with :

1. Matters Under Article 227 No. 1463 of 2026:

State of UP

Versus

Yameen S/o Sharafat Ali

Court No. - 53

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. These matters are connected together in compliance of the order dated 03.02.2026 passed by this Court in the leading matter. The leading matter being Matters Under Article 227 No. 1268 of 2026 (Anuj Kumar Chaudhary and another Vs. State of U.P. and 3 others) has been filed before this Court by the petitioners Anuj Kumar Chaudhary and Anuj Kumar Tomar with the following prayers:

"i. To issue an order or direction by setting aside the impugned order dated 09.01.2026 passed by learned Chief Judicial Magistrate, at Chandausi, District Sambhal in Misc. Case No. 525 of 2025 (Computer No. 684/2025) (UPSLO40119292025) between Yameen Vs. Anuj Tomar and others under Section 173(4) of the BNSS (Annexure no. 18 to this petition).

ii. To issue any other suitable order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

iii. To award costs of this petition under Article 227 to the petitioners."

3. The connected matter being Matters Under Article 227 No. 1463 of 2026 (State of U.P. Vs. Yameen S/o Sharafat Ali) has been filed with the following prayers:

"(i) Set aside the order dated 09.01.2026 passed by Ld. Chief Judicial Magistrate, Sambhal at Chandausi (Anex-7) in Misc. Case No. 525/25

(Computer No. 684/25) (Yameen Vs. Anuj Tomar) by which application filed u/s 173(4) BNSS filed by respondent was allowed and officer in-charge of P.S. Sambhal was directed to register the case and investigate the same.

(ii) Issue any other order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.

(iii) Award cost to the humble petitioner throughout of the present petition."

4. Today in the connected matter being Matters Under Article 227 No. 1463 of 2026, Vakalatnama on behalf of respondent has been filed in Court by Sri Mohammad Khalid, Sri Syed Ahmad Faizan and Sri Zaheer Asghar, Advocates, the same is taken on record.

5. Heard Sri Ashutosh Kumar Sand, learned counsel for the applicants in the leading matter, Sri S.F.A. Naqvi, learned Senior Advocate assisted by Sri Mohammad Khalid, Sri Syed Ahmad Faizan, Sri Zaheer Asghar and Sri Sahanwaj Shah, learned counsels for the opposite party no.4 and perused the records.

6. Notice on behalf of respondent nos. 1 to 3 has already been accepted by learned State counsel.

7. In the connected matter, Sri Manish Goel, learned Additional Advocate General/Senior Advocate assisted by Sri Rupak Chaubey, learned AGA-I for the State-petitioner and Sri S.F.A. Naqvi, learned Senior Advocate assisted by Sri Mohammad Khalid, Sri Syed Ahmad Faizan and Sri Zaheer Asghar, learned counsels for the respondent have been heard and records perused.

8. The arguments of learned Additional Advocate General/Senior Advocate in the connected matter as of now in sum and substance is as under:

(i) The opposite party has not approached the concerned police station for lodging of an FIR and without exhausting the said remedy approached higher police officials and then the court concerned, thus the procedure under Section 174(3) BNSS (Corresponding to Section 156(3) Cr.P.C.) has not been followed.

(ii) Earlier FIRs of the same incident have been lodged at Police Station Kotwali Sambhal, District Sambhal which have been referred to in the report dated 06.05.2025 of the Additional Superintendent of Police, North, District Sambhal and the said fact has not been considered by the court concerned.

(iii) Provisions of Section 174 BNSS have not been complied with.

(iv) Police report filed before the court concerned giving a detailed version about the alleged incident has not been considered.

(v) The judgments of the Apex Court in the case of **Om Prakash Ambadkar Vs. State of Maharashtra and others : 2025 SCC OnLine SC 238** and **XXX Vs. State of Kerala and others : 2026 INSC 88** has been relied upon.

(vi) The proceedings are clear harassment to the accused.

9. Sri A.K. Sand, learned counsel for the petitioner in the leading matter adopted the arguments of learned counsel for the State in the connected matter and further supplemented it by submitting as under:

(i) The incorporation of making a complaint/sending report through electronic means as per Section 173(1)(ii) and also procedure as per Section 173(4) BNSS has not been complied with and the private respondent has directly approached Senior Officer and then the court concerned.

(ii) Section 175(4) BNSS gives protection to a public servant and Section 175(4)(b) has not been complied with by the court concerned.

10. Learned counsel appearing for the private respondent/complainant submitted as under:

(i) The status of the petitioner in the petition titled as "State of U.P. Vs. Yameen) is not clear inasmuch as in the petition itself the petitioner therein is described as petitioner/complainant and thus the status of the petitioner is incorporated and has no locus as the petitioner is not the complainant.

(ii) The affidavit sworn in the petition of the State in para 1 states that the deponent has been authorized by the petitioner but no such authorization is on record and thus it needs to be clarified whether it is in his private capacity.

(iii) A petition under Article 227 of the Constitution of India is not maintainable in view of the judgments and law laid and held by the Apex Court and this Court as an order which is under challenge is an order simplicitor directing registration and investigation of an FIR which should not be interfered.

(iv) The petitioner in the petition filed by the State of U.P. is the Principal Secretary (Home), Government of Uttar Pradesh, Lucknow who is the protector of a citizen and is even then challenging an order of Court directing registration of FIR and investigation.

(v) The judgments in the cases of **P. Suresh Vs. D. Kalaivani and others**

: 2026 INSC 121, State of Madhya Pradesh Vs. Shyamsunder Trivedi : 1995 (4) SCC 262 of the Apex Court and the following judgments of a co-ordinate Benches of this Court are being relied: **Nahni and 5 others Vs. State of U.P. and another : 2025 AHC 220921 and Kamlesh Meena and 2 others Vs. State of U.P. and 2 others : 2025 AHC 123424.**

(vi) It is submitted that for addressing the matter on merits he may be granted two weeks time to file counter affidavit in both the petitions.

11. The situation thus which stems out in the matter is that an order dated 09.01.2026 passed by the Chief Judicial Magistrate, Chandausi, District Sambhal in Misc. Case No. 525 of 2025 (Yameen Vs. Anuj Tomar) by which the court concerned has allowed the application under Section 173(4) BNSS and directed the SHO, Sambhal to lodge a First Information Report regarding the incident mentioned therein and investigate the same in accordance with law is under challenge.

12. The submissions of the petitioners in both the petitions is on merits whereas the preliminary objection has been raised regarding the maintainability of the petition filed by the State on behalf of the private respondent and for addressing it on merits time to file counter affidavit is being sought. A petition before this Court is filed under Article 227 of the Constitution of India, in the supervisory jurisdiction and this Court should not scuttle its jurisdiction while entertaining a matter. The law for maintainability of a petition under Article 227 of the Constitution of India is well settled.

13. At this instance, the fact which is seen is that the complainant has failed to produce any relevant document or even make a relevant pleading that he approached the Officer Incharge of the Police Station or information was provided to the Officer Incharge of police station regarding commission of cognizable offence and the Officer Incharge refused and neglected to register the FIR.

14. At this stage time as prayed for two weeks is granted to learned counsel for the private respondent to file counter affidavit. Two weeks thereafter is granted to file rejoinder affidavit to the same, if any.

15. Let the matter be listed on 24.03.2026.

16. Till the next date of listing, effect and operation of the order dated 09.01.2026 passed in Misc. Case No. 525 of 2025 (Yameen Vs. Anuj Tomar) by learned Chief Judicial Magistrate, Sambhal at Chandausi shall remain stayed.

February 10, 2026
M. ARIF

(Samit Gopal,J.)