



2026:AHC:180216

HIGH COURT OF JUDICATURE AT ALLAHABAD
APPLICATION U/S 528 BNSS No. - 31933 of 2026

Dayashankar @ Dayalu

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Somdev Dixit
Counsel for Opposite Party(s)	:	G.A.

Court No. - 79

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for applicant and learned AGA appearing for the State.
2. This present application has been filed for seeking quashing of order dated 14.07.2026 passed by Session Judge, Firozabad in Session Case No.733 of 2026 (State Vs. Dayashankar @ Dayalu), arising out of Case Crime No.676 of 2021, U/s 323, 324, 308, 506 IPC, P.S. Shikohabad, District Firozabad was rejected.
3. Learned counsel for applicant submitted that applicant has been falsely implicated in the present case since no offence as alleged has ever been committed by him. Learned counsel for applicant admitted that injured suffered certain injuries which has been medically examined by the concerned doctor, but at the same time learned counsel for applicant submitted that injuries which were sustained by injured were not caused by the applicant. He next submitted that matter relates to examination of witnesses as well as the other witnesses who have been listed during course of investigation. Learned counsel for applicants further argued that there is hardly any evidence against applicant to corroborate him with the alleged incident but without considering the said facts, discharge application preferred at the behest of applicant from discharging him for commission of alleged offence, has been rejected illegally against the weight of evidence by learned court concerned vide impugned order and as such, the same may be quashed.

4. Per contra, learned AGA vehemently opposed the prayer as made in the instant application and supported the order impugned. He further submitted that the contentions, which are sought to be raised on behalf of applicant, would relate to disputed questions of fact, and would involve appreciation of evidence. It is submitted that at the stage of consideration of discharge, only a prima facie case is to be seen and the court concerned is not expected to hold a mini trial.

5. The ambit and scope of exercise of powers while passing an order of discharge, was subject matter of consideration in **Union of India vs. Prafulla Kumar Samal And Another [(1979) 3 SCC 4]**, and it was held that the Court while exercising such powers is not to act as a trial judge but should weigh evidence and form opinion only on the limited question of whether a prima facie case is made out.

6. In **P. Vijayan Vs. State of Kerala and another (2010) 2 SCC 398**, the Hon'ble Apex Court has laid down that if the trial Judge comes to the conclusion that there is sufficient ground to proceed, he will frame charge, and evidence and probability need not be weighed that is to be done after the trial begins. At the stage of considering of discharge application, the court is not to see whether trial would end in conviction or acquittal.

7. In the same context, the Hon'ble Apex Court in **State of Tamil Nadu Vs. N. Suresh Rajan and others 2014 (84) ACC 656**, has laid down that at the stage of consideration of discharge application, the court has to proceed with the assumption that materials brought on record by the prosecution are true. As such, the court has only to find out whether the facts brought on record by the prosecution are true or not.

8. From perusal of the material available on record as well as order impugned, it is evident that learned court concerned after considering each and every aspect of the matter, has rightly rejected the application for discharge by holding that prima facie offence is clearly made out against the applicant and as such, it cannot be said that learned court concerned has acted without application of mind, the reasoning given by learned court concerned, is just and proper. No ground available for interfering in the matter which has already been

proceeded by learned trial court up to the stage of framing of charges.

9. In view thereof, the application lacks merit and is hereby **dismissed.**

August 31, 2026
Ashish/-

(Saurabh Srivastava,J.)