



2026:AHC:178947

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 52405 of 2025

Rohit Soni

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Dheeraj Kumar, Dipanshu Kushwaha,
Himanshu Gupta, Naman Navin Singh
Counsel for Opposite Party(s) : G.A.

Court No. - 81

HON'BLE MADAN PAL SINGH, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard learned counsel for the applicant and the learned A.G.A. for the State and perused the record.
3. This application under Section 528 B.N.S.S. has been filed by the applicant for quashing the summoning order dated 24.07.2025 passed by the learned Additional Chief Judicial Magistrate, Mahrauni, District Lalitpur, in Case No. 44 of 2023 (Akash Vs. Rohit Soni), arising out of Case Crime No. 17 of 2022, under Section 409 IPC, Police Station Madawara, District Lalitpur.
4. The brief facts of the present case are that the applicant, Rohit Soni, T.G.-2, was entrusted with the duty of collecting electricity revenue from consumers. It is alleged that during the period from 22.12.2021 to 19.01.2022, he collected a sum of Rs.13,83,439/- from the consumers but did not deposit the same with the department within time. On the basis of the complaint, the FIR was registered and investigation was conducted. During investigation, the informant and other departmental witnesses supported the prosecution case and relevant documents were also collected. However, the Investigating Officer submitted a final report dated 06.11.2022 on the ground that the entire outstanding amount had subsequently been deposited by the applicant. The learned Magistrate did not accept the final report and, after considering the

material available on record, summoned the applicant for the offence under Section 409 IPC.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated. It is submitted that after registration of the FIR, the entire alleged amount of Rs.13,83,439/- was deposited by the applicant on different dates. The receipts and details of the deposits have been brought on record by way of the supplementary affidavit. It is further submitted that the Investigating Officer, after completing the investigation and considering the deposit of the entire amount, found no sufficient evidence against the applicant and submitted the final report dated 06.11.2022.
6. Learned counsel for the applicant further submits that in the departmental inquiry also, the applicant was held guilty of misconduct and was awarded the minor penalty of withholding one annual increment without cumulative effect. It is further submitted that the applicant had no intention to misappropriate or embezzle the amount received from the consumers. Hence, the essential ingredients of the offence under Section 409 IPC are not made out against the applicant..
7. Learned A.G.A. has opposed the prayer made by the applicant and submitted that the allegations in the FIR, the statements of the informant and other witnesses and the documentary evidence collected during investigation prima facie disclose the commission of an offence under Section 409 IPC. He further submits that the subsequent deposit of the amount after registration of the FIR, does not free him from liability. It is also submitted that the issues raised by the applicant are disputed questions of fact, which cannot be examined in proceedings under Section 528 B.N.S.S. Therefore, no interference is called for at this stage.
8. Having considered the rival submissions and perused the record, this Court finds that the FIR was lodged alleging that the applicant, while being entrusted with the duty of collecting electricity revenue from consumers, collected the amount but failed to deposit the same within the prescribed time. The learned Magistrate, after considering the statements of the witnesses and other material available on record, has passed a detail and reasoned order rejecting the final report and

summoning the applicant under Section 409 IPC. It is admitted by learned counsel for the applicant that the entire alleged amount was deposited after registration of the FIR and that the amount was deposited in 39 instalments. The subsequent deposit of the amount does not wipe out the allegation of criminal breach of trust, particularly when the material collected during investigation prima facie shows that the amount collected from the consumers was not deposited within time.

9. In view of the aforesaid facts and circumstances, this Court finds that a prima facie case under Section 409 IPC is made out against the applicant. The subsequent deposit of the amount cannot be treated as a ground for quashing the criminal proceedings at this stage.
10. The principles governing the exercise of inherent jurisdiction of the High Court have been settled by the Hon'ble Supreme Court in the following cases:
 - (i) **R.P. Kapur Vs. State of Punjab**, A.I.R. 1960 S.C. 866;
 - (ii) **Kurukshetra University Vs. State of Haryana**, (1977) 4 SCC 451;
 - (iii) **State of West Bengal Vs. Swapan Kumar Guha**, (1982) 1 SCC 561;
 - (iv) **Dhanalakshmi Vs. R. Prasanna Kumar**, 1990 Supp SCC 686;
 - (v) **State of Haryana & Others Vs. Bhajan Lal**, 1992 Supp (1) SCC 335;
 - (vi) **State of Bihar Vs. P.P. Sharma**, 1992 Supp (1) SCC 222;
 - (vii) **B.S. Joshi Vs. State of Haryana**, (2003) 4 SCC 675;
 - (viii) **Sanapareddy Maheedhar Seshagiri & Another Vs. State of Andhra Pradesh & Another**, (2007) 13 SCC 165;
 - (ix) **State of Telangana Vs. Habib Abdullaha Jilani & Others**, (2017) 2 SCC 779; and
 - (x) **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Others**, AIR 2021 SC 1918.
11. Keeping in view the facts of the present case and the settled legal position, this Court finds no sufficient ground to interfere with the proceedings at this stage. There is also no material on record to show

that the criminal proceedings are mala fide, frivolous or vexatious. The allegations and the material collected during investigation prima facie disclose the commission of the alleged offence. The disputed questions of fact raised by the applicant can be considered by the trial court on the basis of evidence.

12. In view of the above, no illegality or infirmity is found in the summoning order dated 24.07.2025 passed by the learned Magistrate. The prayer for quashing the entire proceedings and the impugned summoning order is hereby refused.

13. Accordingly, the application is rejected.

August 24, 2026
Akbar

(Madan Pal Singh,J.)