



2026:AHC:177923

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 14438 of 2026

Akhand Pratap Upadhyay

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Vishal Pandey

Counsel for Opposite Party(s) : Abhay Mishra, G.A., Sachin Srivastava

Court No. - 75

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. On 09.04.2026 on the submission of learned counsel for the applicant that the matter relates to matrimonial dispute between and the applicant who is the husband is ready and willing to settle the dispute amicably, this Court referred the matter to the Mediation Centre of this Court. The said order reads as under:

"Shri Vishal Pandey, learned counsel for the applicant and Shri Alok Mishra, learned A.G.A. for the State are present.

The present application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the applicant to quash the entire proceedings of criminal case No. 6305 of 2021, arising out of case crime No. 31 of 2020, under Section 67 of the Information Technology (Amendment) Act, 2008, Police Station- Sindhaura, District Varanasi as well as cognizance/summoning order dated 24.2.2021, pending in the court of Additional Chief Judicial Magistrate, Court No. 1, Varanasi .

Learned counsel for the applicant submits that the matter relates to matrimonial dispute and applicant (husband) is ready and willing to settle the dispute amicably and keep the opposite party no. 2 with him. In order to show his bona fides the applicant is ready to deposit Rs. 30,000/- to be handed over to the wife on her first appearance. Learned counsel for the applicant urged that the case may be referred to the Mediation Centre of this Court so that the couple may have a chance to settle their dispute on their own terms through mediation.

The Court is also satisfied on the basis of record and the submissions

made before it that the nature of litigation is such that there is a chance to resolve the matter through process of mediation and an attempt ought to be made to explore that possibility.

Accordingly, the matter is being referred to the Mediation and Conciliation Centre, High Court, Allahabad. The applicant will deposit Rs. 30,000/- within two weeks at the Mediation Centre. In case the amount is deposited, the Mediation Centre will issue notices to both the parties returnable within a period of four weeks. Out of the same, Rs. 27,000/- shall be handed over to the wife on her first appearance with regard to her maintenance and minimum expenses. Rs. 3,000/- will remain deposited with the Mediation Centre.

The mediator is allowed three months' time to find out possible solution of the dispute between the parties and send his report to the court regarding the outcome of mediation.

Put up this case as fresh before the appropriate Bench along with report of the mediator on 10.7.2026.

Till the next date of listing, further proceedings of the aforesaid case shall remain stayed.

It is made clear that in case of default in depositing the amount as ordered above or on non-participation of the applicant in the mediation proceedings, the interim stay order shall stand automatically vacated.

This case shall not be treated as tied up or part heard to this Bench."

2. The Mediation Centre of this Court has submitted its report dated 18.06.2026, as per which the applicant has not deposited a sum of Rs. 30,000/- before the Mediation Centre, thus, notice could not be issued to the parties.

3. Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for the applicant on merits.

4. The present application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the applicant to quash the entire proceedings of criminal case No. 6305 of 2021, arising out of case crime No. 31 of 2020, under Section 67 of the Information Technology (Amendment) Act, 2008, Police Station- Sindhaura, District Varanasi as well as cognizance/summoning order dated 24.2.2021, pending in the

court of Additional Chief Judicial Magistrate, Court No. 1, Varanasi.

5. The contention of learned counsel for the applicant is that no offence against the applicant is disclosed and the present prosecution has been instituted with a malafide intention for the purpose of causing harassment. He pointed out certain documents and statements in support of his contention.

6. At this stage, the argument raised by learned counsel for the applicant involves adjudication of a factual dispute and appraisal of evidence.

7. From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicant at this stage. All the submissions made at the bar, relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 528 BNSS. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192** and lastly **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283.**

8. This Court in exercise of its power under Section 528 BNSS is not required to assess the correctness of the allegations and reliability of evidence. Thus, the prayer for quashing is refused.

9. The present application lacks merit and deserves to be dismissed.

10. Dismissed accordingly.

11. Interim order, granted earlier, stands vacated.

(Dr. Gautam Chowdhary,J.)

August 21, 2026

Mustaqeem./S.Mishra