



2026:AHC:167450

Reserved

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 30537 of 2025

Bhoop Narayan Pal And 2 Others

.....Applicant(s)

Versus

State Of U.P. And Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Kirti Kumar Singh, Manoj Kumar,
Monu Singh, Pradeep Kumar Pal,
Prashant Kumar Nishad

Counsel for Opposite Party(s) : Ashish Kumar Tiwari, G.A., Pavan
Kumar, Prabha Shanker Mishra

Court No. - 88

HON'BLE SANJIV KUMAR, J.

1. Heard Mr. Pradeep Kumar Pal along with Mr. Manoj Kumar, learned counsel for the applicants, Mr. Pavan Kumar, learned counsel for opposite party no.2, Mr. O.P. Mishra, learned AGA for the State and perused the record.

2. This application under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') has been filed to quash the charge-sheet dated 29.07.2025, summoning order dated 02.08.2025 as well as entire proceedings of Case No. 4725 of 2025, arising out of Case Crime No. 205 of 2025, under Sections 103(1), 3(5) of Bhartiya Nyaya Sanhita, 2023 (in short 'BNS'), Police Station Saini, District Kaushambi.

3. Brief facts of the case are that opposite party no.2 lodged an FIR against the applicants and two others alleging therein that on 04.06.2025 at about 12:00 noon, informant's father Ram Babu Tiwari, was killed by the applicants after administering him poison due to village election enmity. It was also stated that the accused Babu Narayan Pal is presently the *Pradhan* of the village.

4. Upon this information, FIR under Sections 103(1), 3(5) BNS was lodged and during investigation, it was found that this is not a case of murder, but abetment to suicide. In this regard, the Investigating Officer

collected suicide note of the deceased as well as recorded other evidence. Thereafter, charge-sheet was filed under Sections 3(5), 108 BNS before the competent court, which took cognizance of the offence and summoned the applicants as well as the other co-accused.

5. Learned counsel for the applicants submits that on 28.05.2025 at 13:12 hours, co-accused Jageshwar Pal had lodged an FIR against informant's brother Dhannu @ Siddharth son of Ram Babu Tiwari @ Chhotka Tiwari under Sections 65(2), 351(3) BNS and Sections 5(m), 6 of POCSO Act at Police Station Saini, regarding rape, molestation and threat to kill his daughter. It is further submitted that in the aforesaid case, the informant's real brother is in jail. It is contended that due to the shameful act of his son, the deceased had consumed poison and committed suicide on 04.06.2025 at 12:00 hours. It is also submitted that due to the enmity with the applicants' family, on the ground of lodging of earlier FIR under the POCSO Act and BNS, as stated above, the informant, as a counterblast, has lodged the present FIR against the applicants and the entire family.

6. Learned counsel for the applicants next submits that applicant no.1 was not present at the alleged date, time and place of occurrence, as at the relevant time he was living in Panipat for business purposes, which is evident from a perusal of CCTV footage and withdrawal of money by ATM card in Panipat. It is also submitted that the brother of the deceased Anil Kumar Tiwari and Dhannu @ Siddharth, son of the deceased have given contradictory statement to the Investigating Officer. The entire prosecution story is false and concocted and the learned Magistrate, while taking cognizance and passing summoning order, has not assigned any reason and also not applied his judicial mind, therefore, the entire criminal proceedings are liable to be quashed.

7. Learned counsel for the applicants has relied upon a decision of the Hon'ble Supreme Court in **Patel Babubhai Manohardas and others Vs. State of Gujarat, Criminal Appeal No. 1388 of 2014**, decision dated 05.03.2025, wherein it has been held that in a case of abetment to suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. Merely allegation of harassment, without there being any positive action proximate to the time of occurrence on the part

of the accused, which led or compelled the deceased to commit suicide, conviction for abetment to suicide is not sustainable.

8. Per contra, learned counsel for opposite party no.2 and learned AGA have submitted that the FIR was lodged on correct facts. It is further submitted that, according to suicide note of the deceased, the applicants abetted him to commit suicide and it is the applicant no.1, the sitting *Pradhan*, who has falsely implicated the deceased's son in a false case due to the above dispute as well as the village enmity. It is contended that the case lodged against the deceased's son has been converted under Sections 351(3), 65(2) BNS, whereas Sections 5(m), 6 POCSO Act has been deleted. It is also submitted that, according to call detail report (CDR) collected by the Investigating Officer, the applicants were present in the area of incident and it has come in evidence that, in furtherance of common object, the applicants and other co-accused have committed the offence. The suicide note was recovered from the dead body of the deceased. Due to enmity, the applicants have committed this offence. Applicant no.1 has a criminal history. It is also contended that applicant no.1 is the principal offender and he is absconding from the court proceedings before the Trial Court and NBW has been issued as well as proceedings under Section 82 Cr.P.C. have been initiated against him. The applicants are not participating in the proceedings before the Trial Court. Lastly, it is submitted that this application has no force and it is liable to be dismissed.

9. Learned counsel for opposite party no. 2 has relied upon a decision of the Hon'ble Supreme Court in **Accamma Sam Jacob v. The State of Karnataka & Anr., 2026 INSC 362 SC** and **State of Haryana Vs. Bhajan Lal and others, 1992 (Supp) 1 SCC 335.**

10. In view of submissions of both the parties as well as upon a perusal of material on record, it is not in dispute that earlier the FIR was lodged under Sections 103(1), 3(5) BNS and the Investigating Officer, after collecting evidence, has submitted charge-sheet under Sections 108, 3(5) BNS. According to the applicants, the deceased has committed suicide due to the shameful act of his son regarding which FIR was lodged against his son by co-accused Jageshwar Pal and thus, the applicants had

no role in the death of the deceased. It is also not in dispute that prior to this incident, co-accused Jageshwar Pal had lodged an FIR against Dhannu @ Siddharth, the son of the deceased with regard to rape, threat and molestation under Section 65(2), 351(3) BNS and also under Section 5(m), 6 POCSO Act. It is also not in dispute that in that case, the accused were sent to jail and thereafter, the deceased committed suicide.

11. According to the prosecution, the applicants and other co-accused, against whom charge-sheet has been filed, abetted the deceased to commit suicide. In this regard, the prosecution has relied upon the suicide note of the deceased and also on the statement of his son and other witnesses before whom the deceased wept due to his son being sent to jail in a false case and stated that the applicants and others were demanding money to enter into compromise otherwise his son would remain in jail and thereafter, the deceased consumed poison and committed suicide. According to autopsy report, there was no external injury over the body of the deceased and, as per viscera report, the dead body contained aluminum phosphate. The suicide note, prima facie, discloses that the deceased was under mental agony due to the act of the applicants and other co-accused, and had stated that he is committing suicide due to the act of the applicants.

12. The evidence, particularly the evidenciary value of the suicide note of the deceased, has to be determined after evidence led by both the parties. The other disputed questions of fact raised by the applicants require an evaluation of the evidence, which cannot be undertaken in the present proceedings. The effect of alleged enmity, if any, is also a matter to be considered by the Trial Court after evidence is adduced by both the parties. The evidence collected by the Investigating Officer, prima facie, discloses cognizable offence against the applicants.

13. A perusal of cognizance and summoning order discloses that the learned Magistrate, after perusing the evidence on record, has taken cognizance of the offence and thereafter summoned the applicants and other co-accused. At this stage, the learned Magistrate was not required to pass a detailed order. Thus, it can not be said that the learned Magistrate has not applied his judicial mind while taking cognizance and summoning

the accused. The case law relied upon by the applicants does not apply to the present stage of the case, as the above decision was passed against the judgment of conviction in appeal, after the parties had led their evidence.

14. Therefore, no good ground exists to interfere with the criminal proceedings pending before the Trial Court. This application is devoid of merit and it is, accordingly, **dismissed**.

(Sanjiv Kumar,J.)

August 11, 2026
Subham