



2026:AHC:54159

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 7987 of 2026

Feeroz Ahmad And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sheikh Obaidullah
Counsel for Opposite Party(s)	:	G.A.

Court No. - 81

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.
2. The present application u/s 528 of B.N.S.S. has been filed to quash the entire proceedings of Criminal Case No. 67 of 2026 (State vs. Feeroz and others), arising out of Case Crime No. 478 of 2024, under Sections 325, 351(2) of B.N.S. and Section 51 of Wildlife Protection Act, 1972 and Section 11 of Prevention of Cruelty to Animals Act, 1960, P.S. Raunapar, District Azamgarh, as well as chargesheet dated 05.02.2025 and cognizance order dated 07.01.2026, pending in the Court of A.C.J.M., Court No. 11, Azamgarh.
3. It is submitted by the learned counsel for the applicants that the F.I.R. was registered against the applicants on 24.12.2024 at 22:24 hours in respect of alleged incident dated 23.12.2024 at 22:30 hours, under Sections 325, 351(2) of B.N.S. and Section 51 of the Wild Life Protection Act, 1972 (in short "the Act, 1972) and Section 11 of the Prevention of Cruelty to Animals Act, 1960 (in short "the Act, 1960), P.S. Raunapar, District Azamgarh, by one Pintoo Yadav son of Bahadur Yadav. The delay in lodging the F.I.R. has not been properly explained by the first informant. It was alleged by the first informant that he saw the accused-applicants slitting throat of blue bull which was witnessed by him. On hearing voice of the informant, the accused persons had threatened him and left the place of incident. When statement of the informant was

recorded, it is stated by him that last ritual of the blue bull was made with the help of villagers.

4. It is further submitted that during the course of investigation, Investigating Officer recorded statements of independent witnesses Manoj Yadav, Rajeev Yadav who stated that the informant was being threatened by some persons and the informant disclosed their names. On the strength of statement of aforesaid persons, the Investigating Officer submitted chargesheet in this case on 05.02.2025 under the aforesaid Sections. The learned Court concerned took cognizance of the offence under the aforesaid sections vide order dated 07.01.2026. It is submitted by the learned counsel for the applicants that the dead body of blue bull was not recovered by the police during the course of investigation and no recovery memo was prepared. Nothing incriminating has been recovered from the possession or pointing out of the applicants during the course of investigation and the evidence adduced by the independent witnesses would come in the category of hearsay evidence and the same is not admissible. The police has failed to collect any weapon from the possession of the applicants. They have been falsely implicated in this case due to ulterior motive and the Investigating Officer wrongly and illegally submitted chargesheet against the applicants though there was no legal and admissible evidence against the applicants.

5. It is also submitted by the learned counsel for the applicants that the First Information Report was lodged by a villager and cognizance of offence under Section 51 of the Act, 1972 is barred in terms of Section 55 of the Act, 1972. The learned Magistrate did not consider this aspect and he took cognizance of offence in a cryptic manner.

6. Per contra, learned A.G.A. opposed the prayer and submitted that the Investigating Officer has collected ample evidence against the applicants. The sole testimony of the informant is sufficient to record conviction of the accused-applicants if the same is found to be trustworthy during the course of trial. There is no material illegality or irregularity in the submission of chargesheet against the present applicants.

7. I have heard rival submissions advanced by the learned counsel for

both the parties and perused the record.

8. For ready reference, Section 55 of the Act, 1972 is reproduced hereunder:

"55. Cognizance of offences. - No Court shall take cognizance of any offence against this Act except on the complaint of any person other than-

(a) the Director of Wild Life Preservation or any other officer authorised in this behalf by the Central Government; or

(aa) Member-Secretary, Central Zoo Authority in matters relating to violation of the provisions of Chapter IV-A; or

(ab) Member-Secretary, Tiger Conservation Authority; or

(ac) Director of the concerned tiger reserve; or

(ad) the Management Authority or any officer, including an officer of the Wild Life Crime Control Bureau, authorised in this behalf by the Central Government; or

(b) the Chief Wild Life Warden, or any other officer authorised in this behalf by the State Government subject to such conditions as may be specified by that Government; or

(bb) the officer-in-charge of the zoo in respect of violation of provisions of section 38J; or

(c) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the State Government or the officer authorised as aforesaid."

9. The aforesaid Section 55 of the Act, 1972, is very clear which provides that no Court shall take cognizance of any offence against this Act unless a complaint is made by the authorized person. The cognizance cannot be taken under the Act, 1972 on the complaint or F.I.R. lodged by a private person, therefore, the arguments advanced by the learned counsel for the applicants have some force and this Court is of the opinion that

cognizance under Section 51 of the Act, 1972 cannot be taken on the complaint/F.I.R. lodged by a private person in terms of Section 55 of the Act, 1972. So far as other sections of Bhartiya Nyay Sanhita and Prevention of Cruelty to Animals Act, 1960, is concerned, there is no embargo in the Sanhita/the Act, 1960. The proceedings may go on under Section 325, 351(2) of B.N.S. and Section 11 of the Act, 1960.

10. In the present case, the learned Magistrate has taken cognizance on the chargesheet filed by the police under Sections 325, 351(2) of B.N.S. and Section 11 of the Act, 1960 and Section 51 of the Act, 1972. The aforesaid cognizance order is barred by Section 55 of the Act, 1972 and, therefore, the present application deserves to be quashed/set aside in so far as it relates to offence under Section 51 of the Act, 1972. The bar under Section 55 of the Act, 1972, shall not affect any proceedings for the offences under the Bhartiya Nyay Sanhita, such as Section 325, 351(2) of B.N.S. and Section 11 of the Act, 1960, and the same shall be proceeded with further.

11. However, if the authorized officer files a complaint alongwith police report submitted by the Investigating Officer then it will be open for the learned Magistrate to take cognizance, after following due procedure and to issue process/summons in respect of the offences under the Act, 1972. It is further observed that the Trial Court will hear the applicants before framing of charge or at the stage of discharge and the Trial Court will apply its judicial mind to the facts of the present case and will proceed accordingly. The accused/applicants may be discharged by the court concerned if there is no legal evidence against them in the case diary, but if the Investigating Officer has collected admissible evidence against the applicants, the charge may be framed by the learned Trial Court.

12. With the aforesaid observation, the present Application U/S 528 of B.N.S.S. is **partly allowed** to the extent of quashing the proceedings for the offences under Section 51 of the Wild Life Protection Act, 1972, only. The Trial Court is directed to proceed further in accordance with law.

(Vivek Kumar Singh,J.)

March 17, 2026

A.P. Pandey