



2026:AHC:61457

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11974 of 2026

Shayada Khatoon Urf Shahida Khatoon

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Dinesh Kumar Shukla,
Yashvant Kumar Venvansh
Counsel for Opposite Party(s) : G.A.

Court No. - 75

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Mukesh Kumar Singh, Advocate who has appeared through Video Conferencing and Sri Yashvant Kumar Venvansh, learned counsel for the applicant who is present in Court, Sri Ajay Singh, learned A.G.A.-I for the State and perused the material brought on record.

3. This application under Section 528 BNSS has been filed by the applicant- Shayada Khatoon @ Shahida Khatoon, with the prayer to allow this application and quash the entire proceeding as well as impugned charge-sheet dated 21.07.2025 & cognizance/summoning order dated 10.12.2025 in Sessions Trial No. 889 of 2025 (State of U.P. Vs. Shayada Khatoon @ Shahida Khatoon) arising out of Case Crime No. 341 of 2025, under Sections 352, 351(3) B.N.S. and Section 3(1) (Dha), 3(2)(Va) SC/ST Act, Police Station Dhanghata, District Sant Kabir Nagar, pending in the Court of Special Judge, SC/ST Act, Sant Kabir Nagar, with a further prayer that proceeding of the aforesaid case be stayed during the pendency of the present application.

4. The facts of the case are that a first information report was lodged on 09.07.2025 by the opposite party no.2 under Sections

87, 137(2), 352, 351(3) B.N.S. and Section 3(2)(V), 3(2)(Va), 3(1) (Dha) SC/ST Act against Ayan Ansari and the present applicant Shayada Khatoon @ Shahida Khatoon alleging therein that she is a woman of downtrodden society. Ayan Ansari is a resident of Sant Kabir Nagar. He was after her daughter and when he used to find an opportunity he used to make an attempt to talk to her. On seeing this attitude she scolded him but he did not correct himself. On 05.07.2025 at about 3 pm Ayan Ansari on a false pretext of marrying her daughter lured and enticed her away. She during the process of search went to his house on 05.07.2025 where she met his mother Shahida Khatoon. She enquired about her daughter from her on which she became angry and used caste related words as abuses on her and threatened her. She then came back to her house. After a lot of effort when she did not come to know of the whereabouts of her daughter she has come to lodge a report.

5. The victim was recovered and her statement under Section 180 B.N.S.S. and under Section 183 B.N.S.S. were also recorded. The investigation concluded and charge-sheet was submitted after which the court of the Special Judge, S.C./S.T. Act, Sant Kabir Nagar vide order dated 10.12.2025 summoned the applicant to face trial. In so far as the co-accused Ayan Ansari is concerned, his name was exonerated which finds place in column 12 in the charge-sheet in the list of accused not charge-sheeted.

6. Submission of learned counsel for the applicant is that the order taking cognizance is an illegal order in as much as the court concerned has failed to appreciate the fact that the victim in her statement recorded during investigation has given vague & omnibus version regarding the allegations against the applicant. It is submitted that although Ayan Ansari was also named as an accused in the first information report but he has been exonerated in the investigation and it is only that charge-sheet has been submitted against the applicant which would also go to show that the matter is based on false, omnibus and general allegations.

7. *Per contra*, learned counsel for the State opposed the prayer for quashing and submitted that looking to the allegations as

levelled against the applicant and also the statement of the informant during investigation cognizable offence is made out against the applicant. It is submitted that the trial court concerned has summoned the applicant by passing the order dated 10.12.2025 after being satisfied that offence is made out. It is submitted that there is no ground for quashing of the proceedings in the present matter.

8. After hearing the learned counsel for the parties and perusing the records, it is evident that the applicant is named in the first information report and charge-sheet has been submitted against her after investigation subsequent to which vide order dated 10.11.2025 she has been summoned. The first information report and the material collected during investigation goes to show that there are allegations against the applicant. The law with regard to quashing is trite. The scope and ambiguity of powers to be exercised under section 482 Cr.P.C. has been elaborately dealt with and considered by the Apex Court in the case of ***Neeharika Infrastructure (P) Ltd. v. State of Maharashtra : (2021) 19 SCC 401*** and it has been observed and held as under:

"13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in Khwaja Nazir Ahmad [King Emperor v. Khwaja Nazir Ahmad, 1944 SCC OnLine PC 29 : (1943-44) 71 IA 203 : AIR 1945 PC 18], the following principles of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences.

13.2. Courts would not thwart any investigation into the cognizable offences.

13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.

13.4. The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 CrPC is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.)

13.5. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 CrPC.

13.9. The functions of the judiciary and the police are complementary, not overlapping.

13.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

13.13. The power under Section 482 CrPC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court.

13.14. However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur

[R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], has the jurisdiction to quash the FIR/complaint.

13.15. When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section 482CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

9. The Apex Court in the case of *Pradeep Kumar Kesarwani Versus State of Uttar Pradesh and Another : 2025 SCC OnLine SC 1947* has laid a four-step test for High Courts to follow while considering petitions for quashing criminal proceedings under Section 482 of the Code of Criminal Procedure. It has been held as under:

"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in

exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See:Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013))]"

10. Law for quashing is strict and trite. The present case does not fall within the category of cases as enumerated in the judgements of Apex Court in the case of **Neeharika Infrastructure (P) Ltd. (Supra)** and also on the four-steps test in the case of **Pradeep Kumar Kesarwani (Supra)**. No ground for interference is made out. It is trite law that at the stage of quashing only the material of the prosecution has to be seen and the court cannot delve into the defence of the accused and then proceed to examine the matter on its merit by weighing the evidence so produced. The disputed questions of facts of the case cannot be adjudged and adjudicated at this stage while exercising powers under Section 482 Cr.P.C. and only the prima facie prosecution case has to be looked into as it is. Evidence needs to be led to substantiate the defence of the accused. Further it is also well settled that that while exercising powers under section 482 Cr.P.C., the High Court is not required to conduct a mini trial.

11. In view of the same, looking to the facts and circumstances, the present application U/s 528 BNSS is ***dismissed***.

12. Pending application(s), if any, stand disposed of.

March 25, 2026
AS Rathore

(Samit Gopal,J.)