



2026:AHC:57982

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 4437 of 2026

Vipin And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ram Raj Pandey, Shubham
Pandey

Counsel for Opposite Party(s) : G.A.

Court No. - 73

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant and learned AGA for the State.

2. The present 528 BNSS application has been filed to quash the summoning order dated 26.11.2022 passed by Learned Civil Judge Junior Division/ Fast Track Court/ Judicial Magistrate, Court no.2, Bulandshahar along with quash the proceeding of Complaint Case No. 447 of 2022, Under Section 498A, 323 I.P.C & Section 3/4 D.P. Act Police Station Mahila Thana, District Bulandshahar (Smt Roshani Vs Vipin and other).

3. Counsel for the applicant submits that applicant no.1 is husband and application no.2 is father-in-law of opposite party no.2. Applicants are enlarged on bail. He further submits that there is chances of mediation if the matter is being referred to Mediation Centre. Opposite party no.2 lodged complaint against the applicants through application U/s 156(3) Cr.P.C. alleging 4 persons stating therein that her marriage solemnized with applicant No.1 on 28.2.2017 and father of opposite party no.2 spent huge amount in marriage but applicant were not satisfied with this dowry and expenses spend by father and they demanding Rs.5 lacs cash and one Maruti Wagon-R car, when

demand were not fulfilled, they started physically and mentally torture. She further stated in complaint that her husband was doing job in Saudi Arab since 2017 and returned back in the year 2019 and resided with family. Applicants repeatedly demanded for dowry and on non fulfillment of dowry demand, they ousted the opposite party No.2 from her matrimonial house. He further submits that summoning by learned Magistrate is without application of judicial mind and no offence under the aforesaid sections is made out against the applicants.

4. *Per contra*, learned A.G.A. opposed the submission raised by applicant's counsel and submits that on perusal of contents of complaint it is apparent that applicants were demanded Rs.5 lacs and Wagon-R Maruti Car. It is further apparent from the complaint that from 23.12.2019 to 25.02.2020 opposite party lived in her matrimonial house but during these period the in-laws physically assaulted her as well demanded for dowry and her father-in-law molested her. The in-laws ousted the victim from house in the year 2020. Prima facie, offence is made out against the applicants.

5. Considered the argument raised by applicants' counsel and learned AGA, it is evident from the record that in-laws physically molested the opposite party No.2 and demanded for dowry, thereafter, in the year 2020 they ousted the opposite party no.2/victim from their house, as such, prima facie, offence is made out against the applicants. Cognizance and summoning by learned Magistrate is just and proper. No interference is warranted.

6. The grounds taken in the application reveal that many of them relate to disputed question of fact. This Court is of the view that it is well settled that the appreciation of evidence is a function of the trial court. This Court in exercise of power under Section 528 BNSS cannot assume such jurisdiction and put an end to the process of trial provided under the law. It is

also settled by the Apex Court in catena of judgments that The impugned criminal proceeding against the applicants is abuse of the process of the Court and is liable to be quashed by this Court. the power under Section 528 BNSS at pre-trial stage should not be used in a routine manner but it has to be used sparingly, only in such an appropriate cases, where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings or where allegations made in First Information Report or charge-sheet and the materials relied in support of same, on taking their face value and accepting in their entirety do not disclose the commission of any offence against the accused. The disputed questions of facts and defence of the accused cannot be taken into consideration at this pre-trial stage.

7. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, Manik B. Vs. Kadapala Sreyes Reddy and another, 2023 Live Law (SC) 642, 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**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 528 BNSS as the same do not suffer from any illegality or infirmity.

8. The present 528 BNSS application of applicants is hereby **dismissed** with the aforesaid observation.

March 20, 2026

Nitin Verma

(Deepak Verma,J.)