



2026:AHC:67223

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 12976 of 2026

Pankaj Tiwari

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Narendra Kumar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 81

HON'BLE CHAWAN PRAKASH, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The present application under Section 528 B.N.S.S. has been filed to quash the entire proceeding of Case No. 362 of 2026 (State Vs. Pankaj Tiwari) arising out of Case Crime No. 453 of 2025, under Sections 74, 76, 115 (2), 352 B.N.S., Police Station Mauranipur, District Jhansi as well as charge sheet dated 24.01.2026 alongwith cognizance order dated 24.02.2026, pending before the Civil Judge (S.D.)/A.C.J.M. Court No. 1, Jhansi.
3. It is submitted by learned counsel for the applicant that marriage of the opposite party no. 2 was solemnized with Neeraj Tiwari, younger brother of the applicant. She is not residing with his brother but she is residing in her parental house. Neeraj Tiwari filed divorce petition under Section 13A(1) of Hindu Marriage Act on 17.04.2025. The opposite party no. 2 filed a complaint Case No. 267 of 2025 under Sections 12, 17, 18, 19, 20, 22 of Domestic Violence Act on 27.08.2025 against the applicant and others. Thereafter she lodged a first information report as Case Crime No. 453 of 2025, under Sections 74, 76, 115(2), 352 B.N.S., Police Station Mauranipur, District Jhansi against the applicant stating therein that on 04.10.2025, the applicant entered into her home and tried to commit rape with her. She also made a call to the police. Statement of the opposite party no. 2 was recorded under Section 180 and Section 183 B.N.S.S. in

which she supported the version of the first information report. The police also recorded statements of some independent witnesses Constable Kuldeep Singh Yadav and Shivanshu Bajpayee who have not supported the prosecution version. It is further submitted that the applicant was not present at the place of incident. The police after completing investigation, submitted charge sheet against the applicant whereas no offence is made out against the applicant, therefore, the impugned summoning order is illegal and liable to be set aside.

4. *Per contra*, learned A.G.A.,. opposed the submissions made by learned counsel for the applicant and submitted that opposite party no. 2 lodged a first information report against the applicant regarding an incident dated 04.10.2025. Statement of opposite party no. 2 was recorded under Section 180 and Section 183 B.N.S.S. where she supported the prosecution version. The police after investigation, submitted charge sheet against the applicant. The offence was committed by the applicant and the learned Magistrate has taken cognizance and rightly summoned the applicant. There is no illegality in passing the impugned summoning order.

5. As per fact of this case, the opposite party no. 2 lodged a first information report against the applicant regarding an incident dated 04.10.2025. Statement of opposite party no. 2 was recorded under Section 180 and Section 183 B.N.S.S. where she supported the prosecution version. The police after investigation, submitted charge sheet against the applicant on which the learned Magistrate has taken cognizance and summoned the applicant vide impugned order. There is no illegality in passing the impugned order.

6. From the perusal of material on record and the facts of the case, at this stage, it cannot be said that no offence is made out against the applicant. All the submissions made at the bar relates to the disputed questions on fact, which cannot be adjudicated upon by this Court in exercise of power conferred under Section 528 B.N.S.S.. At this stage, only prima facie case to be considered in the light of the law laid down by ***Supreme Court in the case of RP Kapoor Vs. State of Punjab, AIR 1990 SC 66; State of Haryana Vs. Bhajan Lal, 1992 SCC (Criminal) 426; and State of Bihar Vs. P.P. Sharma, 1992 SCC (Criminal) 192.*** The disputed defence of the

applicant cannot be considered at this stage.

7. Considering the facts and circumstances of the case, I do not find any ground to quash the aforementioned case, therefore, the prayer for quashing the same is hereby refused and the application is **dismissed**.

(Chawan Prakash,J.)

March 31, 2026

Rmk.