



2026:AHC:128990

## HIGH COURT OF JUDICATURE AT ALLAHABAD

### APPLICATION U/S 528 BNSS No. - 25150 of 2026

Smt. Preeti Nigam And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite  
Party(s)

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|-------------------------------|---------------------------------|
| Counsel for Applicant(s)      | : Dheeraj Kumar Dwivedi         |
| Counsel for Opposite Party(s) | : Akshay Kumar Srivastava, G.A. |

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**Court No. - 68**

**HON'BLE VIKAS BUDHWAR, J.**

1. Shri Dinesh Kumar Dwivedi, learned counsel for the applicants who are three in number as well as Jyoti Singh, learned AGA for the State and Shri Akshay Kumar Srivastava for opposite party No. 2.

2. This application under Section 528 of the BNSS has been filed for quashing the summoning order dated 21.06.2022 passed by Judicial Magistrate, Ghatampur, Kanpur Dehat Complaint Case No.342/2021 (Smt. Shipra Nigam Vs. Ashish Nigam and others) u/s 323, in 504, 506, 452, 427 I.P.C., P.S. Ghatampur, District Kanpur Nagar as well as entire proceeding.

3. Learned counsel for the applicant has submitted that a complaint stood lodged on 06.02.2021 by opposite party No. 2 happens to be the wife of applicant No. 2 and applicant Nos. 1 and 3 who are the sisters-in-law. The allegation is that the marriage of opposite party No. 2 stood solemnized with applicant No. 2. However, on 14.03.2020, when opposite party No. 2 was at her maternal house post matrimonial discord, the applicants acted as a gang and went to the maternal house of opposite party No. 2 and thereafter inflicted injuries and hurled abuses. Learned counsel for the applicants submits that the opposite party No. 2 is living in her maternal house of her own will after leaving the matrimonial house, and she has also developed intimacy and relationship with some other person.

4. Further submission is that the summoning order cannot be sustained particularly when the same is not as per law as there has been no consideration with regard to the facts relating to the matter. Learned counsel for the applicants also submits that applicant No. 2 happens to be the husband. During the pendency of the present proceedings, he was arrested and now he has questioned the proceedings before this Court and the applicant Nos. 1 and 3, being sisters-in-law, are entitled to be accorded protection in view of the judgment of the Hon'ble Apex Court in the case of **Geeta Mehrotra & Anr vs State Of U.P. & Anr 2012 (10) SCC 741**.

5. Learned counsel for the applicants further submits that in the proceedings under Sections 498A, 323, 504, 506 IPC relatable to Case Crime No. 854 of 2019 read with Section 3/4 D.P. Act, the applicants herein had approached this Court while filing application under Section 482 No. 522 of 2022 in which interim protection was accorded on 21.02.2022. It is further contended that the incident is dated 14.03.2020, but the complaint has been lodged on 06.02.2021.

6. Learned AGA as well as the counsel appearing for opposite party No. 2 submit that whatever might be, the summoning order is dated 21.06.2022 and the present application has been presented on 10.06.2026. Submission is that there is no explanation with regard to the delay of approximately four years. It is further contended that merely because applicant Nos. 1 and 3 happen to be the sisters-in-law and they are married, would not be a ground to hold them innocent, particularly when the allegation is that on a particular date i.e. on 14.03.2020 in the maternal house of the complainant, assault was done.

7. I have heard the submissions made across the bar and perused the record carefully.

8. The sole question which arises for determination in the present proceedings is the extent of judicial intervention in the present matter. Apparently, the applicants happen to be sisters-in-law and the husband of opposite party No. 2. The opposite party No. 2 alleges that she was maltreated, assaulted, and abuses were hurled on 14.03.2020, and the complaint was lodged on 06.02.2021. The question whether there is any delay in filing of the complaint is a mixed question of fact and law which is liable to be taken into consideration when the trial commences. Moreover, merely because the applicant Nos. 1 and 3 happen to be sisters-in-law, they would be entitled to protection particularly when what is to be seen is the nature of the allegation and the allegation is that on 14.03.2020 the applicants barged into the maternal house of opposite party No. 2 and inflicted injuries. As a matter of fact, this Court in the proceedings under Section 528 BNSS is not required to delve into the merits of the matter as they are subject matter of trial, and the Court cannot pre-suppose. Moreover, there is no jurisdictional error pointed out by the learned counsel for the applicants, and furthermore, there is no contradiction in the statements made under Sections 200 and 202 vis-à-vis the allegations contained in the complaint.

9. Accordingly, interference is declined. The application stands **disposed of**, leaving it open for applicant Nos. 1 and 3 to face the trial and to apply for bail, and in case, any appropriate application seeking enlargement on bail is moved, the Court has no reason to disbelieve that the same shall be considered as per the law of the land. Nonetheless, it is always open for the applicants to raise all legal and factual issues and to substantiate their stand

that they are innocent, and this Court has no reason to disbelieve that the court below shall consider the same in the correct perspective.

10. Any observations made in the present order will not prejudice the rights of the parties.

**(Vikas Budhwar,J.)**

**June 24, 2026**

Rajesh