



2026:AHC:125683

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 21152 of 2026

X Juvenile

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Madhukar Bharti, Prince Kumar
Srivastava, Sankalp Chaturvedi
Counsel for Opposite Party(s) : G.A.

Court No. - 34

HON'BLE CHAWAN PRAKASH, J.

1. Heard Mr. Prince Kumar Srivastava, learned Counsel for applicant, learned A.G.A. for State and perused the record.

2. This application under Section 528 BNSS has been filed by the applicant with the following prayer:

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow the present case and may kindly be pleased to quash the entire criminal proceedings in Enquiry No. 99 of 2026 (State Vs. Himanshu Singh @ Bittu Singh), under Section 115(2), 352, 351(3), 324(4), 333 of B.N.S, 2023., Police Station Ravindra Nagar Dhoos, District Kushinagar (arising out of Case Crime No. 155 of 2025) pending before Court of Principal Magistrate/Member, Juvenile Justice Board, Kushinagar at Padrauna, including charge sheet dated 17.10.2025 (bearing No. A135 of 2025) as well as summoning order dated 23.02.2026 passed by Principal Magistrate/Member, Juvenile Justice Board, Kushinagar at Padrauna."

3. Learned Counsel for the applicant submits the applicant is innocent and has been falsely implicated in the present case. A civil dispute is pending in between the family of the applicant and opposite party no.2. Opposite party no.2 lodged an F.I.R. as Case Crime No. 155 of 2025, under Sections 191(2), 115(2), 352, 351(3), 324(4), 333, 110 and 303(2) BNS against the applicant, four named and two unknown persons regarding the incident dated 08.06.2025 with an allegation that the applicant with three other persons assaulted the injured with lathi, sticks and rod. He further submits that

injured Subhavati Devi and Subhash were medically examined. As per medical report, injuries are simple in nature. He further submits that the Investigation Officer has not conducted the fair and proper investigation and filed charge-sheet against the applicant and the learned Magistrate has taken cognizance on 23.02.2026, whereas no *prima facie* case is made out against the applicant, therefore, the summoning/cognizance order as well as entire proceedings of the aforesaid case may be quashed.

4. *Per contra*, learned A.G.A. has submitted that from the perusal of the allegations made in the F.I.R., the statements of the opposite party no.2/injured and witnesses and the material collected during the course of investigation, *prima facie* offence is clearly made out against the applicant and as such, entire proceedings cannot be quashed.

5. As per the fact of this case, opposite party no.2 filed an application under Section 173(4) BNSS. Thereafter, an F.I.R. as Case Crime No. 155 of 2025, under Sections 191(2), 115(2), 352, 351(3), 324(4), 333, 110 and 303(2) BNS was registered against the applicant, four named and two unknown persons regarding the incident dated 08.06.2025 with an allegation that the applicant with three other persons assaulted the injured with lathi, sticks and rod. The injured Subhavati Devi and Subhash were medically examined. During investigation, statements of opposite party no.2, injured and other witnesses were recorded and a charge-sheet was filed against the applicant and the learned Magistrate has taken cognizance on 23.02.2026.

6. From the perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the applicant. All the submission made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under Section 528 BNSS. At this stage only *prima facie* case is to be seen in the light of the law laid down by Supreme Court in cases of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, 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**. The disputed defence of the accused 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.

8. Accordingly, the application is **dismissed**.

(Chawan Prakash,J.)

June 5, 2026

Vijay