



2026:AHC:126677

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 23297 of 2026

Jay Singh Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

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

Court No. - 4

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the material brought on record.
2. The present application under Section 528 BNSS has been filed for setting aside of the summoning order dated 06.01.2026 as well as for quashing of entire proceeding of Complaint Case No. 3996 of 2024 (Satyam Dwivedi Vs. Jay Singh Yadav), under Section 138 of Negotiable Instrument Act, Police Station Nawabganj, District Prayagraj, pending in the court of learned Judicial Magistrate, Court No. 4, Allahabad.
3. All the contentions raised by the counsel for the applicant relate to disputed questions of fact. The court has also been called upon to adjudge the testimonial worth of prosecution evidence and evaluate the same on the basis of various complications of factual details which have been touched upon by the learned counsel. The truthfulness and integrity of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.
4. I have considered the submissions made by the counsel in the light of the observation made by the Hon'ble Supreme Court in the case of **Damodar S. Prabhu Vs. Sayed Babalal H., 2010(5) SCC 663** which read as follows :-

"17. In a recently published commentary, the following observations have been made with regard to the offence

punishable under Section 138 of the Act [Cited from: Arun Mohan, Some thoughts towards law reforms on the topic of Section 138, Negotiable Instruments Act-Tackling an avalanche of cases (New Delhi: Universal Law Publishing Co. Pvt. Ltd., 2009) at p. 5] :

"... Unlike that for other forms of crime, the punishment here (in so far as the complainant is concerned) is not a means of seeking retribution, but is more a means to ensure payment of money. The complainant's interest lies primarily in recovering the money rather than seeing the drawer of the cheque in jail. The threat of jail is only a mode to ensure recovery. As against the accused who is willing to undergo a jail term, there is little available as remedy for the holder of the cheque.

If we were to examine the number of complaints filed which were 'compromised' or 'settled' before the final judgment on one side and the cases which proceeded to judgment and conviction on the other, we will find that the bulk was settled and only a miniscule number continued."

18. It is quite obvious that with respect to the offence of dishonour of cheques, it is the compensatory aspect of the remedy which should be given priority over the punitive aspect. There is also some support for the apprehensions raised by the learned Attorney General that a majority of cheque bounce cases are indeed being compromised or settled by way of compounding, albeit during the later stages of litigation thereby contributing to undue delay in justice delivery. The problem herein is with the tendency of litigants to belatedly choose compounding as a means to resolve their dispute. ?.....

19. As mentioned earlier, the learned Attorney General's submission is that in the absence of statutory guidance, parties

are choosing compounding as a method of last resort instead of opting for it as soon as the Magistrates take cognizance of the complaints. One explanation for such behaviour could be that the accused persons are willing to take the chance of progressing through the various stages of litigation and then choose the route of settlement only when no other route remains. While such behaviour may be viewed as rational from the viewpoint of litigants, the hard facts are that the undue delay in opting for compounding contributes to the arrears pending before the courts at various levels. If the accused is willing to settle or compromise by way of compounding of the offence at a later stage of litigation, it is generally indicative of some merit in the complainant's case. In such cases it would be desirable if parties choose compounding during the earlier stages of litigation. If however, the accused has a valid defence such as a mistake, forgery or coercion among other grounds, then the matter can be litigated through the specified forums."

5. In view of the aforesaid, the submission made by the counsel is well founded.

6. It is thus directed that the accused may appear before the court below within a period of one month from today through the representing counsel and move an application seeking compounding of offence, through compromise. On such application being moved the concerned court may take adequate steps in accordance with law in this regard and shall provide further opportunity to the accused which shall not exceed a maximum period of four months from today to make an endeavour in this direction. Thereafter, the court shall pass necessary orders specifically keeping in view the law laid down by the Apex Court in the case of **Damodar S. Prabhu (supra)** within a period of five months from today.

7. If the decision of the Court given in the light of the application does not conclude the proceedings against the accused and they are further required to appear and face the trial, the court shall be at liberty to proceed in accordance with law against the accused and take all necessary steps and measures to procure their attendance as the law permits.

8. In the aforesaid period of five months or till the decision given in the light of the application, whichever is earlier, no coercive measures shall be adopted against the accused.

9. It is made clear that no application for extension of time shall be entertained if this order is not availed by the accused in the stipulated period of time.

10. It is further clarified that for the present this order has been passed only with regard to the accused on behalf of whom the present application u/s 528 BNSS has been moved in this Court.

11. With the aforesaid observations this application is **finally disposed of**.

(Dr. Gautam Chowdhary,J.)

June 10, 2026
Mustaqeem.