



2026:AHC:125225

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 18652 of 2026

Rohit

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

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

Court No. - 34

HON'BLE CHAWAN PRAKASH, J.

1. Heard Shri Binod Kumar Tripathi, learned counsel for the applicant and learned A.G.A. for the State and perused the records.

2. The present application has been filed by applicant with the following prayer:

"It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application and quash the entire criminal proceeding as well as cognizance order dated 08.01.2026, passed by Judicial Magistrate/Civil Judge, (J.D.), Jalesar, Etah, in Case No.21 of 2026, arising out of Case Crime No.185 of 2025, (State Vs. Rohit), under Sections 281, 125(b), and 106(1) B.N.S., Police Station - Awagarh, District Etah."

3. Learned counsel for the applicant submits that he has been falsely implicated in this case on the basis of false and baseless allegations. Opposite party no. 2 lodged a first information report as Case Crime No.185 of 2025, under Sections 106(1), 125(b), 281 B.N.S. at Police Station Awagarh, District Etah against an unknown person regarding the accident dated 23.07.2025. As per the allegations, an unknown motorcycle rider hit the motorcycle of the brother of the opposite party no. 2 and ran away from the spot. The brother of the opposite party no. 2 sustained grievous injuries alongwith his wife and died thereafter.

4. He further submits that during investigation, statement of owner of motorcycle No. UP 82 R 8873 was recorded, who stated that the applicant was riding the offending motorcycle at the time of alleged incident. There is no eye witness of the said incident. After investigation, charge sheet was filed and the learned Magistrate has taken cognizance whereas no case is made out against the applicant, therefore, cognizance order as well as charge sheet is liable to be set aside.

5. Per contra, learned A.G.A. opposed the submissions as advanced by learned counsel for the applicant and submitted that on 23.07.2025 the applicant was riding the motorcycle No. UP 82 R 8873 in rush and negligent manner. He hit the said offending motorcycle with motorcycle of the brother of the opposite party no. 2. The brother of the opposite party no. 2 received injuries and died thereafter. The statement of owner of offending motorcycle was recorded, who stated that the applicant was riding the offending motorcycle at the time of alleged incident. After investigation, charge sheet was filed. He further submits that as per the evidence, collected during investigation, it cannot be said that no offence is made out against the applicant, therefore, application is liable to be dismissed.

6. According to the facts of this case, a first information report as Case Crime No.185 of 2025, under Sections 106(1), 125(b), 281 B.N.S. was registered at Police Station Awagarh, District Etah against the unknown driver of motorcycle No. UP 82 R 8873. As per the prosecution case, rider of the motorcycle No. UP 82 R 8873 hit the motorcycle No. UP 82 AP 2551 and ran away from the spot. The brother of opposite party no. 2 alongwith his wife sustained injuries. During treatment, his brother died. During investigation, statement of owner of the offending motorcycle was recorded wherein he stated that the applicant was riding the said motorcycle at the time of incident. After investigation, charge sheet was filed and the learned Magistrate has taken cognizance.

7. 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.

8. 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.

June 4, 2026
Rmk.

(Chawan Prakash,J.)