



2026:AHC:124902

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 20472 of 2026

Prabhat Dubey

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mushir Khan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 34

HON'BLE CHAWAN PRAKASH, J.

1. Heard 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 from the Hon'ble High Court that may graciously be pleased to allow this application and quash the impugned Chargesheet dated 30.05.2025 in Case Crime No.0055/2025 U/s 296 B.N.S., Police Station-Gwaltoli, District-Kanpur Nagar, as well as Cognizance/summoning order dated 04.02.2026 in Case No.9093/2026 (State Vs. Prabhat Dubey) in Case Crime No.0055/2025 U/s 296 B.N.S., Police Station-Gwaltoli, District-Kanpur Nagar, pending in the court of A.C.J.M. 7th, Kanpur Nagar, otherwise the applicant shall suffer irreparable loss and injury."

3. Learned Counsel for the applicant submits the applicant is innocent and has been falsely implicated in the present case with false and baseless allegations. The applicant was not present at the place of occurrence and he was not singing any obscene song targeting any girl or woman. He further submits that on the fateful day, the applicant was crossing Lal Imli Chauraha by his four wheeler bearing No. UP 54 W 9695 and the opposite party no.2 and other Police persons stopped the vehicle and demanded Rs. 5,000/-. When the applicant denied to fulfill their illegal demand, they falsely implicated him in a false case. There is no independent witness to prove the allegations. 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 04.02.2026, 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 and witnesses and the material collected during the course of investigation, *prima facie* offence is clearly made out against the applicant. On 25.04.2025, during patrolling, the opposite party no.2 found that applicant was singing obscene songs targeting the girl and woman, who were passing by there and as such, entire proceedings cannot be quashed.

5. As per record, opposite party no.2 lodged an F.I.R. as Case Crime No. 55 of 2025 under Section 296 BNS at the Police Station Gwaltoli, District Kanpur Nagar against the applicant with an allegation that on 25.04.2025, the applicant was singing obscene songs targeting the girl and woman, who were passing by there. During investigation, statements of opposite party no.2 and other witnesses were recorded and charge-sheet was filed against the applicant and the learned Magistrate has taken cognizance on 04.02.2026.

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 3, 2026
Vijay