



2026:AHC:56398

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 5113 of 2025

Surendra Kumar And 3 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Dileep Singh Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Case called out in revised list. No one appears on behalf of opposite party No.2. However, learned counsel for applicants and learned AGA for the State are present.
2. Heard Sri Dileep Singh Yadav, learned counsel for applicants and learned A.G.A. for the State.
3. The present application under Section 528 BNSS has been filed for quashing/setting aside the impugned order dated 10.12.2024 passed by learned Additional Civil Judge (Junior Division)/F.T.C.-I/Judicial Magistrate, Kannauj as well as entire proceeding of Complaint Case No.3837 of 2024 (Vishambhar Vs. Surendra Kumar) under Sections 323, 427, 504, 506 I.P.C., Police Station Kannauj, District-Kannauj.
4. Learned counsel for the applicants submits that on 27.08.2023 at about 9:00 p.m., the opposite party No. 2 along with others forcibly entered the house of the applicants, assaulted them, and abused them. Consequently, applicant No. 4 lodged an F.I.R. on 29.08.2023 against opposite party No. 2 and others, bearing Case Crime No. 661 of 2023, under Sections 452, 323, 504, and 506 I.P.C. After due investigation, the police submitted a charge-sheet against opposite party No. 2 and others under Sections 452, 323, 504, 506, 324, and 325 I.P.C. Thereafter, as a counterblast and with an intention to pressurize the applicants, opposite party No. 2 filed a false and baseless complaint case against the applicants with respect to an alleged incident dated 20.05.2024, whereas no such incident ever took

place. It is further submitted that the complainant was examined under Section 200 Cr.P.C., and his witnesses, namely, Aachchelal and Govind, were examined under Section 202 Cr.P.C. Thereafter, the learned Magistrate summoned the applicants under Sections 323, 427, 504, and 506 I.P.C. It is contended that no offence is made out against the applicants. The learned Magistrate failed to properly appreciate the facts and circumstances of the case and has committed illegality in passing the impugned summoning order without due application of judicial mind. Hence, the impugned order suffers from manifest illegality and is liable to be set aside.

5. Per contra, learned counsel for opposite party No. 2 has opposed the submissions advanced on behalf of the applicants. It is contended that on 20.05.2024 at about 6:00 p.m., applicant Surendra Kumar was grazing his animals in the groundnut (mungfali) crop of the complainant. When the complainant objected and tried to remove the animals from the field, the applicants became annoyed. Thereafter, at about 7:00 p.m., the applicants allegedly entered the house of the complainant, abused him, assaulted him, and committed theft of a T.V., sewing machine, and table fan worth Rs. 25,000/-. It is further submitted that the complainant has narrated the entire facts in the complaint and has supported the same in his statement recorded under Section 200 Cr.P.C., and his witnesses have also supported the prosecution version in their statements recorded under Section 202 Cr.P.C. On the basis of the complaint and the statements recorded under Sections 200 and 202 Cr.P.C., as well as the material available on record, the learned Magistrate has rightly summoned the applicants. Therefore, the present application is liable to be dismissed.

6. From the perusal of the record, it transpires that the allegation against the applicants is that on 20.05.2024 at about 6:00 p.m., applicant Surendra Kumar was grazing animals in the groundnut crop of the complainant, and upon objection by the complainant, the applicants became annoyed and, at about 7:00 p.m., entered the house of the complainant, abused him, assaulted him, and committed theft of household articles. The complainant was examined under Section 200 Cr.P.C., and the witnesses, namely, Aachchelal and Govind, were examined under Section 202 Cr.P.C. Thereafter, the learned Magistrate summoned the applicants under

Sections 323, 427, 504, and 506 I.P.C. The learned Magistrate has assigned cogent and sufficient reasons while passing the impugned summoning order.

7. 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 482 Cr.P.C. 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.

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.

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

(Chawan Prakash,J.)

March 19, 2026

Md Faisal