



2026:AHC:65895

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 52192 of 2025

Sanjay Rajbhar

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Dharendra Kumar, Ulajhan Singh Bind
Counsel for Opposite Party(s) : G.A.

Court No. - 81

HON'BLE CHAWAN PRAKASH, J.

1. Heard Sri Pavan Kumar Srivastava, learned counsel for the applicant and learned A.G.A. for the State.
2. The present application under Section 528 BNSS has been filed for quashing the summoning order dated 10.11.2025 passed by the Judicial Magistrate/Additional Civil Judge (Junior Division) Court No.2, Mau in Crl. Misc. Application No.22242 of 2024 (Laliya Vs. Sunil and others) under Sections 115(2), 324(2) B.N.S., Police Station Kopaganj, District Mau, pending in the Court of Judicial Magistrate/Additional Civil Judge (Junior Division) Court No.2, Mau.
3. Learned counsel for the applicant submits that the brother of the applicant, namely Sunil Kumar Rajbhar, lodged a First Information Report on 02.09.2024, registered as Case Crime No. 229 of 2024, under Sections 3(5), 352, 351(2), 324(4), and 125 of the B.N.S. at Police Station Kopaganj, District Mau. The said FIR was lodged against 14 named accused persons. After due investigation, the police submitted a charge sheet on 17.11.2024 against the applicant and other accused persons. It is further submitted that thereafter, as a counterblast and with an ulterior motive to pressurize the applicant to enter into a compromise, opposite party No. 2 filed a false and baseless complaint case against the applicant with respect to an alleged incident dated 02.09.2024 occurred at about 7:00 a.m. It is alleged therein that the applicant threw dirty water at the door of opposite party No. 2, and upon objection being raised, the

applicant along with other persons assaulted opposite party No. 2 and her husband. However, no such incident ever took place. It is next submitted that the statement of opposite party No. 2/complainant was recorded under Section 223 of the B.N.S.S. (Cr.P.C.), and her witnesses, namely Bechai and Geeta Devi, were examined under Section 202 Cr.P.C. On the basis of the said material, the learned Magistrate proceeded to pass the summoning order dated 10.11.2025, summoning the applicant under Sections 115(2) and 324(2) of the B.N.S. It is further submitted that despite allegations of a serious assault, neither opposite party No. 2 nor her husband underwent any medical examination, and no injury report or medical evidence has been brought on record in support of the allegations made in the complaint. It is lastly submitted that the learned Magistrate, while passing the summoning order dated 10.11.2025, failed to properly appreciate the facts and circumstances of the case and passed the impugned orders in a routine and mechanical manner, without due application of judicial mind. Therefore, the impugned summoning order suffers from manifest illegality and infirmity and is liable to be set aside.

4. Per contra, learned AGA has opposed the prayer of the applicant and submitted that the learned Magistrate has committed no illegality in passing the impugned order. It is contended that the opposite part No.2 filed a complaint regarding the incident dated 2.9.2024 occurred at about 7:00 a.m. Thereafter the complainant examined herself under Section 223 B.N.S.S. and witnesses under Section 202 Cr.P.C. On the basis of the complaint, statements recorded under Sections 223 B.N.S.S. and 202 Cr.P.C., and the material available on record, the learned Magistrate has rightly summoned the applicant under Sections 115(2), 324(2) B.N.S. Therefore, the present application is liable to be dismissed.

5. From the facts of the present case, it transpires that the opposite party No.2 filed a complaint regarding the incident dated 2.9.2024 occurred at about 7:00 a.m. against the applicant and other persons. In this incident the applicant and other persons came at the house of opposite party No.2 and started beaten opposite party No.2 and her husband. The statement of opposite party No.2/complainant was examined under Section 223 B.N.S.S., and his witnesses, namely, Bechai and Geeta Devi were examined under Section 202 Cr.P.C. On the basis of the said material, the

learned Magistrate summoned the applicant under Sections 115(2), 324(2) B.N.S.

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 B.N.S.S. 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.)

March 30, 2026

Md Faisal