



2025:AHC:174565

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 37875 of 2025

Rahul Goswami And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Himanshu Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Himanshu Mishra, learned counsel for the applicants and Sri Moti Lal, learned A.G.A. for the State.

2. This is an application under Section 528 of BNSS preferred by the applicants for quashing the Criminal Complaint dated 22.01.2021 and entire proceedings registered in its pursuance as In Criminal Complaint Case No. 72/2021, 'Smt Shikha Goswami Vs Rahul Goswami and others, under Sections 498A. 452, 406, 323, 504, I.P.C and Section 3/4 of Dowry Prohibition Act, Police Station- Kasganj, District- Kasganj, pending before the Court of Learned Chief Judicial Magistrate, Kasganj including summoning order dated 21.04.2022.

3. The Case of the applicant is that a complaint stood lodged for the offences under Sections 406, 323, 452, 504, 506 IPC on 22.11.2021 by the O.P. No.2 against the applicants, who are husband, father-in-law and mother-in-law with an allegation that the marriage of the O.P. No.2 stood solemnized on 02.03.2024 and in the marriage, several gifts were offered and huge expenditures were incurred, but the applicants were not happy with the same as their expectation was for Rs.5,00,000/-, pursuant where to on 16.06.2019, the O.P. no.2 was thrown out of her matrimonial house on 25.10.2020, when the O.P. No.2 was in her maternal house, the applicants came their and demanded Rs.5,00,000/- as additional dowry and hurled abuses. However, thereafter compromise stood entered into between the parties but the same was not given a fruitful end. Thus, a complaint on 22.11.2021 was preferred. Post-recording of the statement of complainant under Section 200 of the CrPC followed by statement of Sri Harish Chandra and Yogesh Kumar, the

applicants came to be summoned on 21.04.2022 under Sections 498-A, 452, 406, 323, 504 IPC read with Section 3/4 of D.P. Act. Learned counsel for the applicants submitted that the summoning order cannot be sustained for the simple reason that even in fact earlier also a complaint stood preferred by the O.P.No.2 being Complaint No. 2427 of 2019 against the applicants under Section 498-A, 323, 504, 506 IPC read with Section 3/4 of D.P. Act, in which the applicant came to be summoned on 02.02.2021 under Sections 498-A, 323, 504, 506 IPC read with Section 3/4 of D.P. Act and further proceedings under section 13-B of Hindu Marriage Act came to be preferred in which on 04.01.2023, the marriage was dissolved and alimony to the tune of Rs.7,00,000/- was granted to the O.P. No.2, but just in order to give the colour and exert pressure upon the applicants, the present complaint has been filed. Learned counsel for the applicants submitted that it is not open for the applicants to proceed to file multiple complaints one after the other particularly when there happens to be a decree of divorce between them. Even the statements made under Sections 200 and 202 of CrPC/223 and 225 of BNSS are tailormade just in order to suit the circumstances and the court below without recording any *prima facie* satisfaction, regarding the attraction of the penal sections has summoned the applicants in a routine manner. Learned counsel for the applicants further as per the instructions submits that the applicant shall be filing a discharge application.

4. Learned A.G.A. as well as learned counsel for O.P. No.2 on the other hand submit that perusal of the allegations in the complaint, vis-a-vis the statements under Sections 200 and 202 of CrPC/ 223 and 225 of BNSS, nowhere show that there is any material contradiction or variation, which goes to the root of the matter which makes the case triable, however, he submits that once the applicants seek to file discharge application, he has no objection.

5. Considering the submissions so made across the Bar and looking into the nature of allegations and stands of the parties, the application is **disposed of** directing the applicants to file the proceedings by way of discharge application by 16.10.2025 and this Court has no reason to disbelieve that the court below shall decide the same with most expedition.

6. Till the discharge application is decided, no coercive action shall be taken against the applicants in Criminal Complaint dated 22.01.2021 and entire proceedings registered in its pursuance as In Criminal Complaint Case No.

72/2021, 'Smt Shikha Goswami Vs Rahul Goswami and others, under Sections 498A, 452, 406, 323, 504, I.P.C and Section 3/4 of Dowry Prohibition Act, Police Station- Kasganj, District- Kasganj, pending before the Court of Learned Chief Judicial Magistrate, Kasganj including summoning order dated 21.04.2022.

7. The protection accorded to the applicants is only available subject to compliance of terms and conditions and timeline as provided herein and in case of default, the order shall stand vacated without reference to the Bench.

September 26, 2025

N.S.Rathour

(Vikas Budhwar,J.)