



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			C528 No.76 of 2025 Pallavi Goyal Applicant Vs. State of Uttarakhand and Others Respondents <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. K.S. Rautela and Mr. Manoj Joshi, learned counsel for the applicant. 2. Mr. Tumul Nainwal, learned A.G.A. for the State. 3. Mr. Lalit Sharma, learned counsel for respondent no. 3. 4. By the instant petition preferred under section 528 of BNSS, 2023, the present applicant is challenging the order dated 24.09.2024 passed by the learned Judicial Magistrate 1st Haldwani, in Miscellaneous Criminal Case No. 526 of 2024 captioned as 'Ashok Kumar vs. Pallavi Goyal', wherein, notice has been issued to the present applicant. 5. It is argued by the learned counsel for the applicant that the present applicant lodged an FIR on 08.05.2021 bearing FIR No. 0107 of 2021 P.S. Mukhani, District Nainital, wherein, the respondent Ashok Kumar was implicated for the offence punishable under section 420 of IPC. He submits that in this FIR after through investigation the charge-sheet was filed and the Trial Court took cognizance on 05.08.2024 and the respondent Ashok Kumar was summoned to face the trial for the offence punishable under section 420 of IPC. He submits that the respondent Ashok Kumar always adopt a delaying tactics to linger on the trial court proceeding and every time he make an attempt to seek adjournment. Consequently, a petition under section 528 of BNSS was filed by the present applicant for expediting the trial of Criminal Case No. 4105 of 2021 and the said petition was disposed of finally by the Coordinate Bench on 15.07.2025 directing to the learned



			Judicial Magistrate I, Haldwani, District Nainital, to adjudicate and conclude the proceeding of Criminal Case No. 4105 of 2021 arising out of Case Crime No. 107 of 2021 as expeditiously as possible preferably within a period of one year from the date of production of certified copy of this order. 6. He submits that the Coordinate Bench passed an order on 15.07.2025 though prior to this and in order to frustrate the ongoing proceeding of Trial Court the respondent moved an application under section 379 of BNSS, 2023 on 29.04.2024 only in order to linger on the Trial Court proceeding, wherein, the learned Judicial Magistrate 1st on 24.09.2024 registered the said application as Miscellaneous Case No. 526 of 2024 and issued the notices. 7. He submits that the said order dated 24.09.2024 was challenged in the instant petition and this court on 30.01.2025 staying the proceeding of Miscellaneous Case No. 526 of 2024. While staying the proceeding, this court also observed the submissions of learned counsel for the applicant that in the Trial Court proceeding arising out of FIR lodged by the applicant the evidences has already been completed and there are few of the prosecution witnesses, who has to be examined but before that the respondent Ashok Kumar moved an application under section 379 of BNSS, 2023, only in order to divert the issue of Trial Court. 8. He submits that in WPCRL No. 738 of 2025 there was disclosure about order dated 30.01.2025, whereby, the proceeding of Miscellaneous Case No. 526 of 2024 was stayed. He submits that the Coordinate Bench was well aware about the order dated 30.01.2025 while passing order for expediting the Trial Court proceeding of Criminal Case No. 4105 of 2025. 9. He further submits that the application moved under section 379 of BNSS, 2023, have nothing to do with the Trial Court proceeding and that may be treated to be a separate proceeding and this is the reason that the Trial Court registered the said application as a separate miscellaneous case number.
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		10. On the other side, Mr. Lalit Sharma and Mr. Tumul Nainwal submits that as on date the instant petition is completely premature since on an application moved by the petitioner under section 379 of BNSS, 2023, no complaint has been registered so far, which is evident from the order itself and only the notices have been issued and after receiving the response the Magistrate concerned may pass the order for registration of complaint if he thinks it fit after recording the reasons. 11. I am fully convinced with the arguments of learned counsel for the applicant as well as learned counsel for the respondents. Firstly, the application under section 379 of BNSS, 2023, is a separate proceeding and has nothing to do with the trial court proceeding and, secondly, by the order impugned the applicant is not at all prejudice since only the notices have been issued, therefore, the applicant can file her response, if so advice. 12. In such view of the matter, the instant petition is dismissed as premature, however, the applicant is at liberty to file her response so that the concerned court may proceed in accordance with law in Miscellaneous Case No. 526 of 2024. 13. It is made clear that the proceeding initiated pursuant to the application moved under section 379 of BNSS, 2023, have no impact on the ongoing trial and it should be treated to be separate proceeding and the ongoing trial will be proceeded in accordance with law keeping in mind the order of the Writ Court dated 15.07.2025 passed in WPCRL No. 738 of 2025. (Rakesh Thapliyal, J.) 18.06.2026 PR
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