

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS UKHC010126742026  2026:UHC:6416
			<u>UKHC010126742026</u> <u>C528/1569/2026</u> Amit Kumar --Applicant Versus State of Uttarakhand & another --Respondents <u>Hon'ble Rakesh Thapliyal, J.</u> Mr. Vaibhav Singh Chauhan, learned counsel for the applicant. 2. Mr. Tumul K Nainwal, learned AGA, for the State of Uttarakhand. 3. The instant petition is preferred by the applicant – Amit Kumar S/o Shri Jagveer Singh, under Section 528 of BNSS, 2023, for quashing the proceedings of Criminal Case No.213 of 2025, “State of Uttarakhand Vs. Amit Kumar”, arising out of FIR dated 27.09.2024 bearing FIR No.109 of 2024, along with cognizance and summoning order dated 25.04.2025, passed by the learned 3rd Judicial Magistrate, Haridwar, whereby the applicant, herein, is summoned to face the trial for the offences punishable under Sections 106 (1) read with Section 281 of BNS, 2023, Police Station Shyampur, District Haridwar. 4. The brief facts of the case are that the nephew of the informant – Mr. Kuber Singh Negi, while driving his Scooty near Chidiyapur, District Haridwar was hit by the car bearing registration no.UP14CL4215 causing severe injury and during treatment the injured, nephew of the informant, declared dead during treatment. Although the FIR was initially lodged against unknown persons but subsequently police investigation establishes the involvement of the present applicant, and chargesheeted him and thereafter the Trial Court took cognizance and summoned the applicant on 25.04.2025 to face the trial for the offences punishable under Section 106, 281 of BNS, 2023. 5. It is argued by the learned counsel for the applicant that the initiation of the proceeding is completely an abuse of process of law as the incident is nothing but an accident. He further submits that FIR was

		registered after an unexplained delay of 5 days' on 27.09.2024, and furthermore the informant was not the eye witness to the incident who lodged the FIR based on purely hearsay. He further argued that there is no any independent public witness though the Investigating Officer prepared the site plan indicates that the Scooty driven by the deceased was facing the wrong direction. By referring the site plan, it is argued by the learned counsel for the applicant that even the site plan does not discloses any skit marks in order to establish high speed or rash and negligent driving. Learned counsel for the applicant further submits that there is a GD entry which substantiate that the present applicant Mr. Amit Kumar, himself taken the injured to the District Hospital in his own vehicle and also informed the Police about the said incident. 6. Heard the learned counsel for the applicant as well as the learned AGA and perused the records, including the FIR and other materials. 7. The applicant's primary defence rests upon the evaluation of factual discrepancies like the absence of skit marks, contributory negligence and the affect of the delayed registration of FIR. 8. To evaluate the limits of scope under Section 528 BNS, 2023, it is essential to trace the binding legal precedents established by the Hon'ble Apex Court in the catena of judgments, wherein, the Hon'ble Apex Court expressly cautioned High Court against conducting a "mini trial" or meticulously weighing evidence at the quashing stage. Assessing the truthfulness or veracity of allegations falls squarely within the domain of the Trial Court and the allegations in the chargesheet must be taken at face value to examine the prima facie case exists. 9. Under the scope of inherent powers under Section 528 of BNSS, 2023, it has been consistently held by the Hon'ble Apex Court that the issue of delay in lodging the FIR, conduct of the accused, and disputed question of fact cannot be a ground for quashing of the proceedings and the defence of the accused must be tested to examination and cross-examination during the trial itself, including post-mortem report establishes that the deceased - Ajay Negi, died due to rash and negligent driving. 10. Now, since the chargesheet discloses the clear
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		prima facie offence under Section 106 (1) and 281 of BNS, 2023, which is completely a subject matter of the trial, and cannot be quashed under Section 528 of BNSS, 2023. The argument as advanced by the learned counsel for the applicant are completely in the domain of the Trial Court, and this Court does not find any abuse of process of law in summoning the applicant to face the trial. Hence, the petition is dismissed being devoid of merit. No order as to costs. (Rakesh Thapliyal, J.) 24.07.2026 Nitesh/
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