| SL. No. | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGE'S ORDERS |
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| | | | **C528/2102/2026**<br>Haider Alias Bablu And Others<br>--Applicant<br>**Versus**<br>State Of Uttarakhand<br>--Respondent<br>**Hon'ble Alok Mahra, J.**<br>Mr. Tapan Singh, learned counsel for the applicants.<br>Ms. Meenakshi Sharma, learned A.G.A. for the State of Uttarakhand.<br>Mr. Shashi Kant Shandilya, learned counsel for respondent no. 2.<br>2. The present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the "BNSS"), has been filed by the applicants seeking quashing of the charge-sheet dated 09.03.2026, the summoning/cognizance order dated 12.05.2026, passed by the learned Judicial Magistrate-II, Roorkee, District Haridwar, in Criminal Case No. 77 of 2026, *State v. Haider alias Bablu and Others*, as well as the entire proceedings of the aforesaid criminal case, arising out of FIR No. 75 of 2025, registered at Police Station Kaliyar Sharif, District Haridwar, for the offences punishable under Sections 324(4), 351(3), 352 and 191(3) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as the "BNS"), pending before the Court of the learned Judicial Magistrate-II, Roorkee, District Haridwar.<br>3. It is contended on behalf of the applicants that Tanveer, son of Mahir Hussain, and Danish, nephew of respondent no. 2, contested the election for the post of Ward Member of Nagar |

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| | | | Panchayat, Kaliyar Sharif, held in January, 2025. Owing to the said electoral rivalry, respondent no. 2 and her family members allegedly attacked the house of Tanveer and misbehaved with the female members of his family. Respondent no. 2 lodged FIR No. 75 of 2025 against 35 persons, including the present applicants, on 26.02.2025. However, the FIR lodged from the side of the applicants came to be registered on 28.02.2025. Thereafter, the investigation was initially conducted by the Sub-Inspector concerned. Subsequently, the investigation was transferred from Police Station Kaliyar to Police Station Gangnahar vide order dated 25.07.2025, passed by the Superintendent of Police (Rural), District Haridwar, with a direction that the investigation be conducted by the Senior Sub-Inspector posted at Police Station Gangnahar.<br>4. Learned counsel for the applicants submits that, pursuant to the aforesaid order, the investigation was undertaken by Senior Sub-Inspector Ajay Shah, who was subsequently promoted and posted as Station House Officer, Police Station Jhabrera, on 07.09.2025. It is further submitted that, despite his transfer and relief from Police Station Gangnahar, Ajay Shah continued with the investigation and ultimately submitted the charge-sheet on 09.03.2026.<br>5. Learned counsel for the applicants, therefore, contends that once Ajay Shah had been transferred and relieved from Police Station Gangnahar, he ceased to hold the post of Senior Sub-Inspector at the said police station and, consequently, was no longer competent to continue with the investigation in terms of the order dated 25.07.2025 passed by the Superintendent of Police (Rural). It is submitted that, upon his |

transfer, the investigation ought to have been entrusted to another police officer holding the post of Senior Sub-Inspector at Police Station Gangnahar. Accordingly, the charge-sheet submitted by him and the consequential proceedings are liable to be quashed.

6. Per contra, learned counsel appearing for respondent no. 2 submits that the applicants have nowhere pleaded or demonstrated as to how they have suffered any prejudice on account of the investigation having been continued by Ajay Shah after his transfer and promotion. It is further submitted that Ajay Shah, the concerned Investigating Officer, has not even been impleaded as a party to the present application.

7. In support of his submissions, learned counsel for respondent no. 2 has placed reliance upon the judgment of the Hon'ble Supreme Court in *R.A.H. Siguran v. Shankare Gowda alias Shankara and Another*, reported in (2017) 16 SCC 126, particularly paragraphs 8 and 9 thereof, which are reproduced hereinbelow:

> *"8. However, this conclusion was not enough for the High Court to quash the proceeding. It is well-settled law that even if investigation is not conducted by authorized officer, the trial is not vitiated unless a prejudice is shown.*
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> *9. In H.N. Rishbud v. State (UT of Delhi) the question considered by this Court was whether after the court takes cognizance, trial can be held to be vitiated merely on the ground that investigation was invalid. Answering in the negative, this Court held that if the plea of invalidity of investigation is raised at sufficiently early stage, the court, instead of taking cognizance, direct reinvestigation by competent investigating officer. But, after*

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| | | | *cognizance is taken, the trial cannot be quashed for invalidity of investigation."*<br>8. On the strength of the aforesaid judgment, learned counsel for respondent no. 2 submits that the charge-sheet has already been submitted and cognizance has been taken by the learned Magistrate. It is further contended that the applicants have failed to demonstrate any prejudice having been caused to them on account of the investigation having been continued by the concerned Investigating Officer after his transfer and promotion. Accordingly, the present application is liable to be dismissed.<br>9. Having considered the rival submissions advanced by learned counsel for the parties and upon perusal of the material available on record, this Court finds that the principal grievance raised by the applicants is that Ajay Shah continued with the investigation even after his transfer and promotion from the post of Senior Sub-Inspector at Police Station Gangnahar, contrary to the directions contained in the order dated 25.07.2025 passed by the Superintendent of Police (Rural), District Haridwar. However, the applicants have neither specifically pleaded nor demonstrated as to how the continuation of the investigation by the said officer has caused any prejudice to their case. Mere irregularity in the conduct of investigation, by itself, would not be sufficient to vitiate the subsequent proceedings in the absence of any demonstrated prejudice, particularly when the charge-sheet has already been submitted and cognizance has been taken by the competent court.<br>10. The principle laid down by the Hon'ble Supreme Court in *R.A.H. Siguran v. Shankare Gowda alias* |

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| | | | *Shankara and Another* (supra) is squarely relevant to the controversy involved in the present case. In view of the aforesaid legal position, this Court does not find any ground warranting interference in exercise of its inherent jurisdiction under Section 528 of the BNSS.<br>11. Accordingly, the present application under Section 528 of the BNSS, being devoid of merit, stands dismissed.<br>12. Pending applications, if any, also stand disposed of.<br><br>**(Alok Mahra, J.)**<br>03-11-2026<br>SNEHA SNEHA |