2026:AHC:209947

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 5314 of 2026

Indradeep Verma Nad 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Pushpendra Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Pushpendra Singh, learned counsel for the applicants, learned A.G.A. for the State, and perused the record.

2. The present application under Section 482 Cr.P.C. has been filed by the applicants seeking quashing of the charge-sheet dated 09-07-2025, cognizance order dated 22-09-2025, as well as the entire proceedings of Case No. 3846 of 2025, under Section 351(2) B.N.S., Police Station Madhuban Bapudham, district Ghaziabad.

3. Learned counsel for the applicants submits that the charge-sheet has been filed by the Investigating Officer under Section 351(2) of the B.N.S. It is further submitted that the offence under Section 351(2) of the B.N.S. is non-cognizable and, in view of the Explanation to Section 2(1)(h) of the BNSS, the charge-sheet submitted by the Investigating Officer concerned cannot be proceeded with as a police case and is liable to be treated and proceeded with as a complaint case. In support of his submissions, learned counsel for the applicants has placed reliance upon the judgment passed by the Co-ordinate Bench in ***Application U/S 528 BNSS No. 25758 of 2025 (Anand Kumar Shukla Vs. State of U.P. and others), decided on 19-11-2025,*** wherein the Co-ordinate Bench has relied upon the judgments passed in the cases of ***Murli and others Vs. State of U.P. and another, 2008 (61) ACC 54, Virendra Singh and others Vs. State of U.P. and others, 2002 (45) ACC 609, and Shakila Bano and others Vs. State of U.P. and another, 2008 (61) ACC 636.***

4. Learned A.G.A. has vehemently opposed the submissions advanced by learned counsel for the applicants.

5. Since the issue involved in the instant case is purely legal in nature, no notice is required to be issued to opposite party no.2 and the matter is being finally decided at the stage of admission after hearing learned counsel for the applicants and learned A.G.A. From the material

available on record, it appears that the charge-sheet submitted by the Investigating Officer in respect of the non-cognizable offence has been treated by the learned Magistrate as a State case instead of treating the same as a complaint case in accordance with law.

6. Having considered the rival submissions, perused the material available on record, and examined the relevant provisions of law, this Court finds substance in the submissions advanced by learned counsel for the applicants.

7. Accordingly, the present application is allowed.

8. The order taking cognizance of the offence and treating the case as a State case is hereby quashed. The police report submitted by the Investigating Officer shall be treated as a complaint in terms of the Explanation to Section 2(1)(h) of the BNSS. The learned Magistrate shall thereafter proceed with the matter afresh in accordance with law by following the procedure prescribed for complaint cases.

(Madan Pal Singh,J.)

October 7, 2026
pks

Digitally signed by :-
PANKAJ KUMAR SRIVASTAVA
High Court of Judicature at Allahabad