2026:AHC:226979

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 20858 of 2025

Vishnu Bhadauriya

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Bhoopendra Pratap Singh, Shiv Chand Yadav
Counsel for Opposite Party(s)	:	G.A., Rajesh Kumar, Satyam Mishra

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Heard the learned counsel for the applicant, Mr. Rajesh Kumar, learned counsel for opposite party no.2 and the learned A.G.A. for the State.

2. The present application under Section 528 B.N.S.S. has been filed by the applicant for quashing of the impugned charge-sheet dated 19th January, 2023, cognizance/summoning order dated 9th May, 2023 as well as the entire proceedings of Criminal Case No. 604 of 2023 (State Vs. Vishnu Bhadauriya & Others) arising out of Case Crime No. 371 of 2022 under Sections 406 and 506 I.P.C., Police Station-Bidhuna, District-Auraiya, pending in the Court of Civil Judge (Junior Division) Bidhuna/Judicial Magistrate, Auraiya.

3. Brief facts of the case is that the First Information Report dated 21st September, 2022 has been lodged by O.P, no.2/complainant against the two named accused including the applicant. The First Information Report records that information was received at the police station on September 21, 2022, at 18:14 hours, based on a written complaint originally addressed to the Superintendent of Police, Auraiya, dated September 16, 2022. The informant, Ashish Bhauduria, stated that he was acquainted with Vishnu Bhauduria, who claimed to have secured a contract for installing generators in the Central Bank district and for making Kisan Credit Cards. Vishnu Bhauduria allegedly asked the informant for financial assistance to execute the work, promising to return the money with savings, upon which the informant borrowed and handed over funds from Rampal Singh Chauhan, Chandan Singh, Nathu Singh, and others. It is further alleged that Vishnu Bhauduria, along with Pawan Singh, subsequently made a false report to the Deputy District Magistrate, threatened the informant, and conspired to fabricate a false case and police investigation under section 156(3) of the Criminal Procedure Code to misappropriate the money and avoid repayment.

4. After lodging of the aforesaid first information report, the investigation proceeded and upon completion of the same, the Investigating Officer has submitted the charge-sheet against the applicant on which the cognizance has been taken and the applicant has been summoned, hence the present application has been filed.

5. Learned counsel for the applicant submitted that the First Information Report has been lodged on the basis of false and frivolous allegations, which is nothing but an abuse of process of law only with a view to harass the applicant.

6. Per contra, learned A.G.A. has contented that from the allegations made in the First Information Report cognizable offence is made out against the applicants. The defence of the applicant cannot be taken into consideration, at this stage. Therefore, the applicant does not deserve any indulgence.

7. From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicant. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C./528 B.N.S.S. At this stage only prima facie case is to be seen where the allegation made in the FIR/complaint, even of they are taken at their entirety, prima facie constitutes cognizable offence against the accused.

8. Position of law for invoking the jurisdiction of inherent power of High Court has been settled by the Apex Court in following judgments:-

1. **R.P. Kapur Vs. State of Punjab**, *A.I.R. 1960 S.C. 866*;

2. **Kurukshetra University Vs. State of Haryana**, *(1977) 4 SCC 451;*

3. **State of West Bengal Vs. Swapan Kumar Guha**, *(1982) 1 SCC 561;*

4. **Dhanalakshmi Vs. R. Prasanna Kumar**, *1990 Supp SCC 686;*

5. **State of Haryana & Others Vs. Bhajan Lal**, *1992 Supp (1) SCC 335;*

6. **State of Bihar Vs. P.P. Sharma**, *1992 Supp (1) SCC 222;*

7. **B.S. Joshi Vs, State of Haryana,** *(2003) 4 SCC 675;*

8. **Sanapareddy Maheedhar Seshagiri & another Vs. State of Andhra Pradesh & another**, *(2007) 13 SCC 165;*

9. **State of Telangana Vs. Habib Abdullaha Jilani & others**, *(2017) 2 SCC 779;*

10. **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & others**, *2021 AIR SC 1918.*

9. After considering the totality of facts of the case and keeping in mind the position of law, there is no merit in the present application. Apart from that there is no material to show that the complaint/FIR is malafide, frivolous and vexatious. The version of the first information report and the statements of the informant/complainant and other witnesses recorded under Sections 161 Cr.P.C./180 B.N.S.S., and the police documents papers support the prosecution version. In the letter written by the applicant himself on 29th January, 2022 to the District Magistrate bearing No. 7063 which is the part of the case diary, the applicant has admitted that he has taken money from several persons. The interference at the threshold of quashing of the criminal proceedings of the present case cannot be said to be exceptional as it discloses prima facie commission of cognizable offence.

10.In the result, the prayer for quashing of entire proceeding, charge sheet and cognizance order is refused.

11. With the aforesaid observations, the application is **dismissed.**

November 2, 2026
Sushil/-

(Madan Pal Singh,J.)

Digitally signed by :-
SUSHIL KUMAR SINGH
High Court of Judicature at Allahabad