2026:AHC:208697

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 21348 of 2026

Balkishore Malpani And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Devendra Kumar Tiwari, Rakesh Pati Tiwari
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material brought on record.

2. The present application under Section 528 BNSS has been filed with the prayer to quash the charge sheet dated 06.10.2016, cognizance order dated 19.01.2017 as well as entire proceedings of Case No. 146 of 2017 (State Vs. Balkishore Malpani and another), arising out of Case Crime No. 181 of 2013, under Sections 3/7 of Essential Commodities Act, Police Station Ramchandra Mission, District Shahjahanpur, pending in the court of learned Additional Chief Judicial Magistrate, Court No. 1, Shahjahanpur.

3. The contention of learned counsel for the applicants is that no offence against the applicants is disclosed and the present prosecution has been instituted with a malafide intention for the purpose of causing harassment. He pointed out certain documents and statements in support of his contention.

4. At this stage, the argument raised by learned counsel for the applicants involves adjudication of a factual dispute and appraisal of evidence.

5. 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 at this stage. All the submissions made at the bar, relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 528 BNSS. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192** and lastly **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC**

(Cr.) 283.

6. This Court in exercise of its power under Section 528 BNSS is not required to assess the correctness of the allegations and reliability of evidence. Thus, the prayer for quashing is refused.

7. The present application lacks merit and deserves to be dismissed.

8. Dismissed accordingly, leaving it open for the applicants to recourse other remedy available to them.

(Dr. Gautam Chowdhary,J.)

October 6, 2026
Mustaqeem.

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad