2026:AHC:208953

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 35727 of 2026

Hammad Shah Khan And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : S. Kamal Akhtar Khan, Shikha Saxena
Counsel for Opposite Party(s) : G.A.

Court No. - 77

HON'BLE NAND PRABHA SHUKLA, J.

1. Heard Mr. S. Kamal Akhtar Khan, learned counsel for the applicants, learned A.G.A. for the State and perused the record.

2. The present application under Section 528 BNSS has been filed with a prayer to quash the entire criminal proceedings including the impugned Charge Sheet dated 07.06.2010 as well as Cognizance/Summoning Order dated 31.07.2010 passed by Learned Judicial Magistrate, Moradabad in Case No. 1844 of 2010 (State Versus Manoj and Others) arising out of Case Crime No. 49 of 2010, Under Sections 406, 323, 504, 506 of I.P.C., Police Station Kanth, District Moradabad, pending in the Court of Learned Additional Chief Judicial Magistrate-5, Moradabad.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated being the guarantors in the alleged financial transaction. The cognizance order was passed in the year 2010.

4. 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 applicants. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court. Only in cases where the Court finds that there has been failure of justice or abuse of procedure, this power may be exercised to prevent the abuse of process to secure the ends of justice.

5. Accordingly, prayer for quashing is declined.

6. In case, the applicants are not on bail, it is directed that if the applicants appear or surrender through counsel before the Trial Court and make applications for bail within 45 days from the date of the order, the same shall be considered and disposed of expeditiously, after giving opportunity to the other side.

7. Further, it is provided that in case the applicants move applications for discharge at an appropriate stage through counsel, the same shall be disposed of by the Trial Court by a reasoned and speaking order in accordance with law within six weeks thereafter.

8. For a period of 45 days or till the disposal of the discharge application, whichever is earlier, no coercive measures shall be taken against the applicants in the aforesaid case.

9. With the aforesaid direction, this application is ***disposed of*****.**

***(*Nand Prabha Shukla,J.)**

October 6, 2026
Nisha

Digitally signed by :-
nisha kumari
High Court of Judicature at Allahabad