HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 35421 of 2026

Adarsh Rai And 3 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

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

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Heard Mr. Bhaskar Singh, learned Counsel for the applicants and learned A.G.A for the State.

2. This application under Section 528 B.N.S.S. has been filed by the applicants to quash charge-sheet dated 28.05.2014, cognizance and summoning order dated 19.06.2015, NBW order dated 13.07.2026 as well as entire proceedings of Criminal Case No. 1139 of 2015, State v. Adarsh Rai, arising out of Case Crime No.189 of 2014, under Sections 498A, 323, 504, 506 I.P.C. and Section 3/4 D.P. Act, P.S. Sadat, District Ghazipur, pending in the Court of learned Additional Judicial Magistrate, Ghazipur.

3. It is submitted on behalf of the applicants that the cognizance order has been passed in a mechanical manner. The order is on a printed proforma, in which only date, Sections and names of the accused are mentioned. Therefore, at the time of taking cognizance and summoning the accused, the learned Trial Court did not apply its judicial mind. The order is cryptic in nature and appears to have been passed merely by filling the date, Sections and names of the accused on a printed proforma. Accordingly, the impugned cognizance/summoning order is not sustainable in the eyes of law.

4. In this regard, I have perused the certified copy of the impugned order dated 19.06.2015, which shows that the cognizance and summoning order is on a typed proforma order, wherein date, Sections and names of accused have been filled in the blanks.

5. Learned A.G.A. has opposed the aforesaid prayer.

6. The Hon'ble Apex Court in the judgement of **Lalankumar Singh vs State of Maharashtra; 2022 SCC Online SC 1383** has observed in para 38 that:-

"The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused".

7. Similarly, the Apex Court in the case of **Sunil Bharti Mittal vs Central Bureau of Investigation; 2010(11) SCC 125** observed in para 53 which reads as under:-

"53. However, the words "sufficient ground for proceeding" appearing in Section 204 are of immene importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."

8. Co-ordinate Bench of this Court in the judgement of **Satya Pal vs State of U.P. and another; 2023 (4) ADJ 345 (LB)**, held that signing on printed proforma has no cognizance at all as the same is without application of mind and quashed the cognizance order. The relevant paragraph no. 21 of the Judgement is quoted as under:-

"21. In view of the above, the conduct of the judicial officers concerned in passing orders on printed proforma by filling up the blanks without application of judicial mind is objectionable and deserves to be deprecated. The summoning of an accused in a criminal case is a serious matter and the order must reflect that Magistrate had applied his mind to the facts as well as law applicable thereto, whereas the impugned summoning order was passed in mechanical manner without application of judicial mind."

9. This Court had an occasion to deal with such issue in Application u/s 482 No. 26416 of 2021 (Smt. Akali Devi and others vs. State of U.P. and another) and decided on 26.9.2023, observing that practice of taking cognizance on printed proforma on the part of the Magistrate is absolutely erroneous because that does not show application of his mind on the material collected during investigation. Paragraph-8 of the aforesaid judgement dated

26.9.2023 reads as under:-

"8. In view of above legal position, this Court is of the view that merely signing and filling the date and case crime no. in printed proforma is absolutely non-application of mind because the cognizance order must reflect the prima facie opinion of the learned Magistrate."

10. It also took note of **Abdul Rasheed Vs. State of U.P., 2010 SCC OnLine All 2819**, wherein it was said that:-

"judicial orders cannot be allowed to be passed in a mechanical manner either by filling in blank on a printed performa or by affixing a readymade seal etc. of the order on a plain paper. Such a tendency must be deprecated and cannot be allowed to perpetuate. This reflects not only lack of application of mind to the facts of the case but is also against the settled judicial norms. Therefore, this practice must be stopped forthwith".

11. In view of the above, prima facie, it appears that the impugned cognizance/ summoning order is passed in mechanical and cryptic manner without application of judicial mind, therefore, the impugned order dated 19.06.2015 is not sustainable in the eye of law.

12. Considering the above-stated facts and law as referred above, it is apparent that there is nothing to indicate that the said impugned order has been passed after applying judicial mind and thus, the impugned summoning order dated 19.06.2015 is not sustainable and, accordingly, the impugned summoning order dated 19.06.2015 is, hereby, set aside and Trial Court is directed to pass order afresh, in accordance with law.

13. Accordingly, the instant application is **partly allowed.**

14. Let a copy of this order be send to the learned Trial Court for information and necessary action.

October 29, 2026
Vijay

(Chawan Prakash,J.)

Digitally signed by :-
VIJAY KUMAR SAHU
High Court of Judicature at Allahabad