2026:AHC:211577

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 36218 of 2026

Ashok Yadav

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Pintu Kumar Bhartiya, Saurav Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 77

HON'BLE NAND PRABHA SHUKLA, J.

1. Heard Sri Saurav Mishra, learned counsel for the applicant, 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 allow this application and quash the impugned order of taking cognizance dated 28.01.2020, passed by learned Chief Judicial Magistrate, District Ghazipur as well as entire criminal proceedings in Case No. 465 of 2020 (State Vs. Kaldev @ Kaldev Yadav and others), arising out of Charge Sheet No. A-187 of 2019, under Sections 147, 323, 504, 506, 427 I.P.C., P.S.- Mardah, District-Ghazipur pending before the Court of learned Chief Judicial Magistrate, District Ghaziabad and also quash the entire proceedings of aforesaid case in respect of the present applicant.

3. Learned counsel for the applicant submits that the cognizance order dated 28.01.2020 has been passed by the learned Chief Judicial Magistrate, Ghazipur without application of judicial mind and against the material and evidence available on record.

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 applicant. 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 applicant is not on bail, it is directed that if the applicant appears or surrenders through counsel before the Trial Court and makes an application 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 applicant moves an application 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 applicant in the aforesaid case.

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

10. However, the Trial Court is directed to expedite the trial of the present case and conclude the same as expeditiously as possible in accordance with law.

October 8, 2026
Puspendra

(Nand Prabha Shukla,J.)

Digitally signed by :-
PUSPENDRA NARAYAN SINGH
High Court of Judicature at Allahabad