HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 40301 of 2026

Ashish @ Ashish Kumar Mishra

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Jai Singh Yadav, Vinod Kumar Upadhyay

Counsel for Opposite Party(s) : G.A.

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for applicant and learned counsel for opposite party no.2 as well as learned AGA for the State.

2. The present application has been preferred challenging chargesheet dated 09.12.2019 and cognizance order dated 09.04.2024 along with entire proceedings of Case No.720 of 2024 (State Vs. Surendra and others), arising out of Case Crime No.328 of 2019, under Section 323, 504, 506 IPC, Police Station Maharajganj, District Jaunpur, pending in the court of learned Judicial Magistrate-II, Jaunpur.

3. Learned counsel for applicant has submitted that in the instant case, FIR was lodged on 17.11.2019, and after investigation, police report was submitted on 09.12.2019 whereupon cognizance of offence was taken on dated 09.04.2024 i.e. after four and half year by learned court concerned. Learned counsel for applicant further submitted that maximum punishment for commission of the alleged offence, is three years therefore, the bar under Section 468 Cr.P.C. would become operative and the proceedings would be barred by limitation, since the order passed by learned court concerned for taking cognizance, is of dated 09.04.2024 i.e. after four and half years of lodging of the FIR and as such, entire proceedings of the present case, may be liable to be quashed.

4. Per contra, learned counsel for opposite party no.2 as well as learned AGA opposed the prayer sought through the instant application but could not dispute the provision of Section 468 Cr.P.C.

5. After having the rival contentions raised by learned counsel for parties, it is apparent that the punishment for the alleged offence, is of imprisonment up to three year and as per the provision contained in Section 468(c) Cr.P.C., the limitation for taking cognizance of an offence will be three years and no court can take cognizance of the offence after the expiry of period of limitation.

6. In the case of **Sarah Mathew v. Institute of Cardio Vascular Diseases, (2014) 2 SCC 62,** Hon'ble the Supreme Court held that for the purpose of computing the period of limitation under Section 468 Cr.P.C., the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. The expression 'institution of prosecution' would be wide enough to include within its ambit institution of prosecution either by filing of a complaint or by lodging of an FIR.

7. In view of the aforesaid facts and circumstances as well as considering the provisions of Section 468(c) Cr.P.C., chargesheet dated 09.12.2019 and cognizance order dated 09.04.2024 along with entire proceedings of Case No.720 of 2024 (State Vs. Surendra and others), arising out of Case Crime No.328 of 2019, under Section 323, 504, 506 IPC, Police Station Maharajganj, District Jaunpur, pending in the court of learned Judicial Magistrate-II, Jaunpur, are hereby quashed only in respect of applicant herein.

8. Accordingly, the instant application stands **allowed**.

(Saurabh Srivastava,J.)

October 29, 2026
Vivek Kr.

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