HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 41539 of 2026

Devesh Kumar And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Alauddin, Fakhruddin
Counsel for Opposite Party(s)	:	G.A.

Court No. - 55

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State.

2. The application is filed with the following prayer:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously pleased to quash the Charge- sheet dated 09.08.2022, cognizance Order dated 10.08.2023, in Criminal Case No.10528 of 2023 (State Versus Dr. Ayyub) arising out of Case Crime No.68 of 2022 under sections 171-H I.P.C., Police Station-Dudhara, District-Sant Kabir Nagar, pending in the court of Learned Chief Judicial Magistrate, Sant Kabir Nagar.

It is further prayed that this Hon'ble Court may graciously be pleased to stay the further proceeding of Criminal Case No.10528 of 2023 (State Versus Dr. Ayyub) arising out of Case Crime No.68 of 2022 under sections 171-H I.P.C., Police Station-Dudhara, District-Sant Kabir Nagar, pending in the court of Learned Chief Judicial Magistrate, Sant Kabir Nagar."

3. Learned counsel for the applicants submits that initially first information report was lodged on 21.2.2022 under Sections 188, 171-H I.P.C., under Section 51(b) of the Disaster Management Act, 2005 and under Section 3 of the Epidemic Diseases Act, 1897. Subsequently charge sheet has been submitted under Section 171-H of I.P.C. against the

applicants. Learned counsel for the applicants further submits that Section 171-H of I.P.C. is a non-cognizable offence and should be treated as a complaint case in terms of Section 2(d) of Cr.P.C.

4. Learned A.G.A. for the State has not disputed the aforesaid fact and submits that cognizance order may be set aside and the matter may be remanded back for proceeding as a complaint case.

5. Learned counsel for the applicants has no objection.

6. In view of the aforesaid, the cognizance order dated 10.8.2023 passed in Criminal Case No. 10528 of 2023 (State Vs. Dr. Ayyub) arising out of Case Crime No. 68 of 2022, under Section 171-H I.P.C., Police Station Dudhara, District Sant Kabir Nagar, pending in the court of Chief Judicial Magistrate, Sant Kabir Nagar is hereby set aside and the matter is remanded back to the court concerned for treating the police report as a complaint case and proceeding thereafter in accordance with law.

7. Accordingly, the petition is **disposed of.**

(Vikram D. Chauhan,J.)

October 23, 2026
VMA

Digitally signed by :-
VISHWA MOHAN ARORA
High Court of Judicature at Allahabad