2026:AHC:209896

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 23414 of 2026

Smt. Indira Sharma

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Naziya Siddiqui, Prakash Chand Srivastava
Counsel for Respondent(s)	:	C.S.C.

Court No. - 78

HON'BLE SANDEEP JAIN, J.

1. The instant writ petition under Article 226 of the Constitution of India has been filed for the following reliefs:

"(a) Issue a writ, order or direction in the nature of certiorari quashing the order dated 15.07.2026 passed by the City Magistrate, Mathura in Case No. 1320/2026, under Section 152 BNSS;

b. Issue a writ, order or direction in the nature of mandamus/prohibition restraining the City Magistrate, Mathura, from proceeding further with Case No. 1320/2026 pending disposal of the present writ petition;

c. Pass an ad-interim order staying the operation of the impugned order dated 15.07.2026 and all further proceedings in Case No. 1320/2026 during the pendency of the writ petition."

2. Learned counsel for the petitioner submits that proceedings under Section 152 of the B.N.S.S. have been erroneously initiated on the basis of a false complaint made by respondent no. 5, Ramprakash Gupta. It is submitted that pursuant to the said complaint, a conditional order dated 15.07.2026 has been passed by the City Magistrate, Mathura, directing the petitioner to remove the cause of public nuisance.

3. Learned counsel for the petitioner further submits that the aforesaid conditional order has been passed without due application of mind and is contrary to the police report. It is contended that, in view of the police report, no proceedings under Section 152 of the B.N.S.S. could have been initiated against the petitioner.

4. I have heard learned counsel for the petitioner and perused the documents annexed to the writ petition.

5. It appears from the record that the petitioner has raised certain constructions outside his house, which have caused obstruction to the flow of water, resulting in frequent waterlogging and causing hindrance to the movement of passers-by. A complaint in this regard was made by respondent no. 5, and upon inquiry, the allegations were found to be prima facie correct.

6. Consequently, the City Magistrate, Mathura, passed the conditional order dated 15.07.2026 under Section 152 of the B.N.S.S., whereby the petitioner was directed either to remove the obstruction caused to the flow of water or to appear before the concerned Court and show cause as to why the said order should not be made absolute.

7. Instead of submitting his reply to the aforesaid conditional order and availing the remedy available to him under law, the petitioner has straightaway approached this Court by filing the instant writ petition under Article 226 of the Constitution of India.

8. The petitioner has an efficacious alternative remedy available under the provisions of the B.N.S.S. and may raise all his objections before the competent authority in the proceedings initiated under Section 152 of the B.N.S.S. In the circumstances, no ground has been made out for interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

9. Accordingly, the instant writ petition is dismissed as not maintainable on account of the availability of an efficacious alternative remedy.

(Sandeep Jain,J.)

October 7, 2026
Mayank

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