2026:AHC:212563

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 41053 of 2026

Anand And 5 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Manoj Kumar Tripathi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicants and learned AGA for the State.

2. The present 528 B.N.S.S. application has been filed to quash the summoning order dated 9.5.2022 passed by the learned Chief Judicial Magistrate, Hapur in Complaint Case No.9360 of 2021, under Sections 324,504,506 I.P.C., Police Station Pilkhuwa, District Hapur (Roshan Vs Anand & Others).

3. Counsel for the applicants submits that applicants are innocent and have been falsely implicated in the present case. Instant complaint is false, baseless and has been lodged with malicious intention in counter as the applicant lodged F.I.R. against as complainant. On perusal of complaint as well as statement recorded under Section 200 Cr.P.C. and 202 Cr.P.C., no criminal offence is made out against the applicants. The injuries are simple in nature. The learned Magistrate without applying judicial mind took cognizance and issued summons against the applicants.

4. *Per contra,* learned A.G.A. opposed the arguments raised by applicants' counsel and submits that the complaint is supported by medical examination report. The injured has received grievous injury. Three persons have received injury. Further submission is that arguments raised by learned counsel for the applicants are factual aspects of the matter, which cannot be considered at this

stage.

5. The grounds taken in the application reveal that many of them relate to disputed question of fact. This Court is of the view that it is well settled that the appreciation of evidence is a function of the trial court. This Court in exercise of power under Section 528 B.N.S.S. cannot assume such jurisdiction and put an end to the process of trial provided under the law. It is also settled by the Apex Court in catena of judgments that the impugned criminal proceeding against the applicants is abuse of the process of the Court and is liable to be quashed by this Court.the power under Section 528 B.N.S.S. at pre-trial stage should not be used in a routine manner but it has to be used sparingly, only in such an appropriate cases, where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings or where allegations made in First Information Report or charge-sheet and the materials relied in support of same, on taking their face value and accepting in their entirety do not disclose the commission of any offence against the accused. The disputed questions of facts and defence of the accused cannot be taken into consideration at this pre-trial stage.

6. Considering the argument raised by applicant's counsel and perused the record, it is evident that prima facie offence is made out. The Apex Court in its judgment passed in the case of ***Manik B. Vs. Kadapala Sreyes Reddy and another, 2023 Live Law (SC) 642***, para 6 and 7 are quoted herein below:-

> *" 6. Whether the testimony of the witnesses is trustworthy or not has to be found out from the examination-in-chief and the cross-examination of the witnesses when they stand in the box at the stage of such trial.*
>
> *7. Such an exercise, in our considered view, is not permissible while exercising the jurisdiction under Section 482 Cr.P.C."*

7. In view of the above, in the light of judgment of the Apex Court in the matters of **R.P. Kapur Vs. State of Punjab, A.I.R. 1960 S.C. 866, Manik B. Vs. Kadapala Sreyes Reddy & Anr. 2023 LiveLaw (SC) 642, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P.Sharma, 1992 SCC (Cr.) 192** and lastly **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283**, no ground for quashing the proceedings of the aforesaid case, is made out which may call for any interference by this Court in exercise of its inherent power under Section 528 BNSS as the same do not suffer from any illegality or infirmity.

8. The present application under Section 528 B.N.S.S. lacks merit and is, accordingly, **dismissed**.

(Deepak Verma,J.)

October 9, 2026
Meenu Singh

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