2026:AHC:210244

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 43160 of 2026

Abhishek And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Chandra Prakash Choudhary, Piyush Kumar Shukla, Virendra Singh
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 on behalf of the State.

2. Present 528 B.N.S.S. application has been filed to quash the impugned summoning order dated 03.12.2025 passed by the learned Additional Civil Judge (Junior Division)/Judicial Magistrate, Court Room No.8, Bulandshahr as well as entire proceedings in Complaint Case No.10856 of 2024 (Shyamwati vs. Abhishek and others), under sections 323, 325, 504, 506 I.P.C., Police Station Gulaothi, District Bulandshahr.

3. It is alleged in the complaint that the applicants assaulted the complainant and complainant received fracture in her hand. Learned counsel for the applicants submitted that the applicants are innocent and have been falsely implicated in the present case. Present complaint has lodged in counterblast of the FIR lodged by the applicants against opposite party no.2. Summoning by learned magistrate is without application of judicial mind and is liable to be set aside.

4. Learned AGA opposed the submission raised by learned counsel for the applicants and submitted that the complaint was supported by medical examination report and complainant has received fracture in her hand.

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 482 Cr.P.C. 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 482 Cr.P.C. 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 applicants' 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, 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 482 Cr.P.C. as the same do not suffer from any illegality or infirmity.

8. Considered the argument of learned counsel for the applicants. From the record, it is apparent that the victim has received injury and her hands found fractured. Version of complaint is very much supported by statement of the victim recorded under section 200 &202 Cr.P.C. Medical examination report also shows that prima-facie offence is made out

against the applicants.

9. In view of above, court is not inclined to grant any relief to the applicants. The present application under Section 528 B.N.S.S. lacks merit and is, accordingly, **dismissed.**

October 7, 2026
SKD

(Deepak Verma,J.)

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