HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 43796 of 2026

Surender Singh And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Mohammad Danish, Mohammad Iliyas
Counsel for Opposite Party(s)	:	G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

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

2. This application under Section 528 B.N.S.S has been filed by the applicants to quash the impugned order dated 11.12.2025 passed by the learned Chief Judicial Magistrate, Orai at Jalaun in Complaint Case No.636 of 2009 (Smt.Uma Devi vs. Surender Singh and others), under Sections 323, 504, 506 I.P.C., P.S. Kotwali Orai, District Jalaun, Uttar Pradesh pending in the court of learned Chief Judicial Magistrate, Orai at Jalaun.

3. Learned counsel for the applicants has challenged the order dated 11.12.2025 by which the learned magistrate has framed charges against the applicants under sections 323, 504 & 506 I.P.C.. From the record, it is apparent that the applicants earlier filed Application u/s 482 Cr.P.C. No.13211 of 2009 (Surendra Singh @ Babloo & others vs. State of U.P. & another) and this Court by order dated 30.04.2013 refused to quash the proceeding of the case. Then applicants were directed to surrender before the court below and apply for bail. The order dated 30.04.2013 is being quoted below:-

"*Heard learned counsel for the applicants as well as learned counsel for opposite party No.2 and learned AGA. for the State.*

The present petition has been filed with the prayer to quash the entire proceeding of the complaint case No. 276/2008 u/s 323/504/506 IPC, P.S. Kuthond, District Jalaun pending in the Court of C.J.M., Jalaun.

The brief facts of the case are that opposite Party No. 2-Smt. Uma Devi filed a complaint in the court of C.J.M. Orai against the applicants and three others alleging therein that the applicants were demanding more dowry including freez, golden chain

along with Rs. 50,000/- and in pursuance thereof they were torturing, beating and harassing her. Due to beating of the applicants she has also received serious injuries. After receiving the said complaint the learned C.J.M., Orai recorded the statement of the complainant under Section 200 Cr.P.C. and that of the witness under Section 202 Cr.P.C. and thereafter considering the entire material on record including allegations in the complaint, statement of the complainant and other witness recorded under Sections 200 and 202 Cr.P.C. respectively, summoned the applicants to face trial for the offences punishable under Sections 323/504/506 IPC, vide order impugned dated 25.4.2009.

Earlier this matter was referred for mediation to the Mediation Centre of this court vide order dated 4.6.2009 but the mediation has failed between the parties.

Learned counsel for the applicants has contended that no offence has been made out against the applicants and the complaint was filed with a malafide intention for the purposes of harassment only. It is also submitted that the learned Magistrate without considering the entire material has illegally summoned the applicants to face trial for the offences punishable under Sections 323/504/506 IPC.

On the other hand, learned AGA as well as learned counsel for opposite party no.2 have submitted that the learned Magistrate after considering the entire material, including the allegations in the complaint, statement of the complainant and other witnesses recorded under Sections 200 and 202 Cr.P.C. respectively has come to the conclusion that a primafacie case has been made out against the applicants for the offences punishable under Sections 323/504/506 IPC and accordingly summoned them to face trial. It is also submitted that there is no illegality or irregularity in the order impugned passed by the learned Magistrate as at present only a prima facie case is to be seen and considered.

After considering the arguments advanced by the rival parties' counsel, the impugned summoning order along with all other material available on record, I find no infirmity, illegality, irregularity or jurisdictional error in the order impugned dated 25.4.2009 passed by the learned Magistrate. At this stage, it cannot be said that no offence is made out against the applicants. All the averments made on behalf of the applicants are related to the disputed question of facts, which cannot be adjudicated upon by this Court under its extra ordinary jurisdiction under Section 482 Cr.P.C. At this stage only primafacie case is to be seen and considered in the light of the law laid down by Supreme Court in cases 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.

Accordingly, the prayer for quashing the proceedings of the Case as aforesaid is refused.

However, considering the entire facts and circumstances of the case, if the applicants appear/ surrender before the Court below within a period of thirty days from today and apply for bail, their prayer for bail shall be considered and disposed of by both the courts below as far as possible on the same day in accordance with the observations of the Full Bench of this Court in ***Amrawati and another Vs. State of UP, 2005 Cri. LJ 755****, affirmed by the Supreme Court in* ***Lal Kamlendra Pratap Singh Vs. State of UP, (2009) 4, SCC 437*** *and reiterated by the Division Bench of this Court in* ***Sheoraj Singh alias Chuttan Vs. State of UP and others, 2009 (65) ACC 781.***

For a period of thirty days from today no coercive action shall be taken against the applicants.

With the aforesaid observations, the application is disposed of finally."

4. Learned counsel for the applicants in the present application has challenged framing of charge dated 11.12.2025. From perusal of charge, it is apparent that charge has been framed after hearing accused person and accused person denied the charges and request for fresh trial. Learned magistrate has framed charges on available evidence.

5. At this stage, Court is not going into merit of the case. This Court has already appreciated the evidence of the present case and refused to interfere. It would not be proper to again re-appreciate/examine the merit of the case. The order challenged herein dated 11.12.2025 for framing of charge is just and proper.

6. No interference is warranted. Present application u/s 528 B.N.S.S. is **dismissed**.

October 23, 2026
SKD

(Deepak Verma,J.)

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