2026:AHC:210802

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 43628 of 2026

Asaraf Ali

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ashwani Kumar Pathak
Counsel for Opposite Party(s)	:	G.A.

Court No. - 76

HON'BLE SAURABH SRIVASTAVA, J.

1. Although learned AGA is present, no one appeared on behalf of applicant even in the revised call.

2. This present application has been filed for seeking quashing of chargesheet dated 13.05.2015 and summoning order dated 16.09.2016 as well as entire proceeding of Criminal Case No.5812 of 2016 (State Vs. Asharaf Ali), arising out of Case Crime No.146 of 2015, under Section 420, 406, 504, 506 IPC, P.S. Kotwali, District Deoria, pending in the court of learned Chief Judicial Magistrate, Court No.17, Deoria.

3. At the very outset, learned AGA raised a preliminary objection regarding maintainability of the instant application by way of submitting that order impugned is of the year 2016 and the same has been challenged through the instant application after about 10 years without explaining the delay and latches and as such, the same may be dismissed on the ground of delay and latches.

4. The objection so made by learned AGA, seems to be justified since it transpires for the record that in the present matter, chargesheet was filed in the year 2015 whereupon cognizance was also taken in the year 2016 and now the same has been challenged through the instant application after about 10 years without explaining the delay and if the Court fails to take into consideration delay and latches while invoking the powers of the High Court under Section 528 BNSS without any reasonable ground, there would be no end to the litigation. A party cannot approach the High Court under Section 528 BNSS at his whim and caprice merely because

no period of limitation in filing the petition under the aforesaid provision is provided. A petition under Section 528 BNSS must be filed within a reasonable time and it should not be vitiated by inordinate delay and latches on the part of applicant.

5. Accordingly, the prayer sought through the instant application, is refused.

6. Learned AGA has apprised the Court that charges has not been framed till date.

7. In view thereof, learned court concerned is hereby directed to consider the judgment rendered by Hon'ble the Apex Court in the case of **Delhi Race Club (1940) Ltd. and others vs. State of Uttar Pradesh and another reported in 2024 10 SCC 690** at the time of framing of charges.

8. Accordingly, the instant application is **dismissed**.

(Saurabh Srivastava,J.)

October 7, 2026
Vivek Kr.

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