2026:AHC:227836

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 48421 of 2026

Rakesh Yadav And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s) : Ram Mani Upadhyay, Sarvjeet Kumar
Counsel for Opposite Party(s) : G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

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

2. This application under Section 528 BNSS has been filed by the applicants with the prayer to quash the summoning order dated 27.08.2026 passed by Chief Judicial Magistrate, Basti as well as charge sheet dated 23.08.2026 against the applicants in Case Crime No. 208 of 2026, under Sections 115(2), 352, 351(3) of B.N.S., 2023 (Old Sections 323, 504 and 506 I.P.C.), Police Station Nagar, District Basti as well as the entire proceedings of Criminal Case No. 3031 of 2026 (State Versus Rakesh Yadav and others).

3. It is argued by the learned counsel for the applicants that present proceedings has been initiated by the opposite party no.2 through first information report, registered as Case Crime No. 0208 of 2026 against the applicants. Investigating Officer investigated the matter and collected the evidence, submitted charge sheet on 23.08.2026 under Sections 115(2), 351(3), 352 B.N.S. On perusal of charge sheet, court concerned found that charge sheet submitted under non-cognizable offence under Section 2(h) B.N.S., treated the charge-sheet as complaint by order dated 27.08.2026 and issued notice to accused persons under the provision of Section 223 (1) B.N.S. to file objection. He next submitted that applicants after receiving notice, surrender before the court concerned and released on bail. He also submitted that whole proceeding against the applicants is

malice intention only to harass the applicants.

4. Learned A.G.A. appearing on behalf of the State submitted that on perusal of order dated 27.08.2026, it appears that court concerned has issued summon to applicants in regard to provision under Section 223(1) B.N.S. to file objection. The court concerned has not recorded the statement of complainant under Section 223 and 225 B.N.S. and applicants have to file objection before the court concerned. He also submitted that by order dated 27.08.2026 summon has been issued in compliance of provisions provided under Section 223(1) B.N.S., applicants should have filed objection before the court concerned instead of challenging the order dated 27.08.2026. At this moment, court concerned has not issued any process and applicants have not been made an accused and prima facie no offence is found against the applicants.

5. Considering the facts and circumstances of the case and submission made by the learned counsel for the parties, the impugned order dated 27.08.2026 is **set aside**. The present application under Section 528 B.N.S.S. is **disposed of** with a direction if the applicants appear and move objection before the court concerned, the court shall decide the objection of the applicants after hearing both the parties in accordance with law, preferably within a period of eight weeks from the date or production of a certified copy of this order, if there is no legal impediment.

(Deepak Verma,J.)

November 2, 2026
T.S.

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