2026:AHC:230726

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 49625 of 2026

Smt. Sarda And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Umair Alam
Counsel for Opposite Party(s)	:	G.A.

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Heard Mr.Umair Alam, learned Counsel for applicants and learned A.G.A. for State and perused the record.

2. This application under Section 528 BNSS has been filed by the applicants with the following prayer:

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application and quash the entire criminal proceeding of case no. 37155 of 2026 (State Vs. Vaseem and others) in case crime no. 359 of 2026, under Sections 115(2), 117(2) and 85 B.N.S. and Section 3/4 D.P. Act, Police Station- Pakbara, District Moradabad and also quash the impugned charge sheet dated 29.12.2025 and cognizance/ summoning order dated 11.06.2026 passed by Learned Chief Judicial Magistrate, Moradabad."

3. Learned Counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the present case. He further submits that opposite party no.2 lodged an F.I.R., registered as Case Crime No. 359 of 2025, under Sections 85 and 115(2) B.N.S. and Section 3/4 of D.P. Act, at Police Station Pakbada, District Moradabad against the applicants and other family members. The allegation levelled against the applicants in the First Information Report and the subsequent charge-sheet are vague, omnibus and general in nature. No specific role, overt act, or distinct participation in the alleged commission of offence has been attributed to the applicants. The criminal proceedings have been initiated with an ulterior motive to harass and humiliate the Applicants, and continuation of the same would amount to an abuse of the process of the Court. Learned Counsel further submits that the applicants have not

assaulted the opposite party no.2. The medical report does not support the prosecution case.

4. *Per contra*, learned A.G.A. has vehemently opposed the arguments and submitted that a prima facie case for the commission of cognizable offences is fully made out against the applicants on the basis of the material gathered during the investigation. The Investigating Officer has collected sufficient oral and documentary evidence, including statements recorded under Section 180 Cr.P.C., which directly link the applicants to the alleged crime. The opposite party no.2/injured was taken to the hospital at Pt. Deen Dayal Upadhyay District Male Hospital, Moradabad. As per injury report, 7 injuries were found and injury no.1 was grievous in nature. It is further submitted that the truthfulness, credibility, or veracity of the allegations and statements cannot be meticulously weighed or evaluated at the threshold stage under Section 528 BNSS. It cannot be said that no prima facie case is made out against the applicants, therefore, this application is liable to be dismissed.

5. The scope and extent of the inherent powers of the High Court under Section 528 BNSS. are well-settled. While the Court possesses wide powers to prevent the abuse of the process of any Court or to secure the ends of justice, such powers must be exercised sparingly, with circumspection, and strictly in accordance with established legal principles. (**Ref: State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335; Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401**).

6. A bench of the Hon'ble Supreme Court has repeatedly held that while exercising inherent jurisdiction, the High Court cannot embark upon a detailed inquiry into the reliability, adequacy, or genuineness of the evidence collected during investigation. The relevant test at this stage is whether the uncontroverted allegations made in the FIR and the material collected in support thereof disclose the commission of a cognizable offence.

7. In the present case, a bare reading of the charge-sheet and the witness statements recorded during the investigation demonstrates the existence of a *prima facie* case against the applicants. The contention of the learned Counsel for the applicants that the allegations are merely general and omnibus is a factual plea that requires evaluation of evidence. Merely because allegations involved multiple accused persons or are broadly framed, does not, by itself, render the charge-sheet liable to be quashed under Section 528 BNSS, provided, there is material on record supporting the involvement of the accused. Whether the evidence collected is sufficient

to establish guild beyond reasonable doubt is the matter strictly reserved for trial.

8. Upon the perusal of the material on record and considering the facts of the case at this stage, it cannot be said that no offence is made out against the applicant. All the submission made at the bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under Section 528 BNSS. At this stage, only a *prima facie* case is to be considered in 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**. The disputed defence of the accused cannot be considered at this stage.

9. Considering the facts and circumstances of the case, I do not find any ground to quash the aforementioned case, therefore, the prayer for quashing the same is hereby refused.

10. Accordingly, the application is **dismissed**.

11. It is, however, clarified that any observation made in this order are solely for the purpose of deciding this application and shall not affect the merits of the case before the Trial Court.

November 5, 2026
Vijay

(Chawan Prakash,J.)

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