2026:AHC:208932

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 49788 of 2025

Rahul And 4 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ram Shyam Shanker Pandey, Subodh Pandey
Counsel for Opposite Party(s)	:	G.A.

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

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

2. The present application under Section 528 B.N.S.S. has been filed to quash the charge-sheet dated 28th November, 2024, cognizance/summoning order dated 22nd September, 2025 as well as the entire proceedings of Criminal Case No. 10837 of 2025 (State Vs. Rahul & Others) arising out of Case Crime No. 606 of 2024 under Sections 281, 125, 125 (a), 191 (2), 115 (2), 352, 351 (3) and 117 B.N.S. against applicant no.1 and Sections 191 (2), 115 (2), 352, 351 (3) and 117 B.N.S. against applicant nos. 2 to 5, Police Station-Katghar, District-Moradabad, pending in the Court of Chief Judicial Magistrate, Moradabad.

3. Learned counsel for the applicants submits that no offence is made out against the applicants and that the present prosecution has been instituted with a mala fide intention to cause harassment.

4. In the absence of any of the grounds recognized by the Supreme Court which may justify the quashing of the complaint or the impugned proceedings, the prayer for quashing the same is refused, as no abuse of the process of the Court is made out. The summoning court is vested with sufficient powers to discharge the accused even before the stage of framing of charges, if, for reasons to be recorded, it considers the charge to be groundless.

5. As requested, the applicants are permitted to appear before the concerned court within 20 days from today through counsel and move an application seeking discharge.

6. No coercive measures shall be adopted against the applicants for a period

of 20 days from today or till the filing of the discharge application, whichever is earlier.

7. If the concerned court, after hearing the counsel for the accused, is persuaded to take the view that the accused ought not to have been summoned and that the charge is groundless, it shall not abstain from discharging the accused merely on the ground that the material available at the time of summoning is the same as that available at the time of consideration of the discharge application.

8. On the other hand, if the court, after hearing the counsel for the accused, holds the view that the accused has been rightly summoned and that the material on record does not indicate the charges to be groundless, it shall pass an order to that effect and proceed further in the matter in accordance with law. It shall also be at liberty to adopt such measures as are permissible in law to secure the presence of the accused.

9. It is clarified that in case the applicants or their counsel does not appear before the trial court to press the discharge application despite the fact that they/he has been given various opportunity to have their/his say in the matter, the trial court shall proceed to decide the same on merits after considering the material available on record.

10. With the aforesaid observations, this appeal stands **disposed of.**

October 6, 2026
Sushil/-

(Madan Pal Singh,J.)

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