2026:AHC:207518

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 52139 of 2025

Vakil Singh And 5 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Dev Kaushik
Counsel for Opposite Party(s)	:	Sanjay Kumar Mishra, G.A.

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Dev Kaushik, learned counsel for the applicants, learned AGA for the State, Mr. Sanjay Kumar Mishra, learned counsel for the opposite party no.2 and perused the record.

2. The present appeal has been filed to quash the charge sheet dated 21.01.2024 as well as summoning order dated 07.03.2025 passed by Civil Judge (Senior Divison)/A.C.J.M, Kushinagar Padrona as well as entire proceeding of Case No. 6021 of 2025 in Case Crime No.0545 of 2023, under Sections 323, 504, 506, 452, 427 and 147 IPC, Police Station Kaptanganj, District Kushinagar.

3. Learned counsel for the appellants submits that no offence is made out against the appellants 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 appellants are permitted to appear before the concerned court within 30 days from today through counsel and move an application seeking discharge.

6. No coercive measures shall be adopted against the appellants for a period of 30 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. In case the learned counsel for the applicants did not appear to press the discharge application despite being afforded opportunity given by the trial court, 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 5, 2026
Ajeet

(Madan Pal Singh,J.)

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