



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 1617 of 2026

Sr Cecilia Tauro

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Gaurav Tripathi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 78

HON'BLE AVNISH SAXENA, J.

1. Sri Gaurav Tripathi, learned counsel for the accused-applicant appears and hands up the supplementary affidavit. The same is taken on record. He submits that the co-accused, who has moved this Court in Application U/s 528 B.N.S.S. No.443 of 2026 (Sr. Seleen Mary Vs. State of U.P. and another) got an interim order from this Court on 12.01.2026, which is fixed for 09.02.2026 at 2:00 p.m. He submits that the accused-applicant is also on the same footing as he has not been charge sheeted, but summoned by the Chief Judicial Magistrate. He has drawn the attention of this Court towards the order dated 12.01.2026 passed by this Court. The same is reiterated underneath:-

"1. Sri Manish Tiwari, learned Senior Counsel assisted by Sri Gaurav Tripathi, learned counsel for the applicant and Sri M.C. Chaturvedi. learned A.A.G. for the State are present.

2. It is the contention of learned Senior Counsel appearing for the accused-applicant that the Chief Judicial Magistrate, Mau by order dated 24.12.2025 passed in Case Crime No.260 of 2024, under Sections 506, 201, 120-B and 302 I.P.C., Police Station Madhuban, District Mau, has passed a perfunctory order, whereby the cognizance has been taken for the offence under Sections 506, 201, 120-B and 302 I.P.C., not only against charge sheeted accused Prem Thirkey, Devanand, Rajendra @ Bhakti Prakash Tirkey, but also against the non-charge sheeted accused Sr Seleen Mary (present applicant), Cicilia and father Eric Soreng on the basis of material collected by the Investigating Officer in the case diary. It is the submission of learned counsel that the charge sheet is submitted against the first three named accused for offence under

Sections 506, 201, 120-B, 304 I.P.C. The Magistrate has not discussed any material available on record to enhance the offence from homicide not amounting to murder to homicide amounting to murder. The deceased died due to asphyxia by drowning. His body was recovered on 19.05.2024 from the pond in the premises of the college, which led the accused to get implicated in this case. The learned Senior Counsel has drawn the attention of this Court towards the judgment of State of Gujarat Vs. Girish Radhakrishnan Varde reported in (2014) 3 SCC 659, relevant paragraphs nos.14 and 15 on the point of the power of Magistrate while invoking Section 190 Cr.P.C. Hence, he seeks interference of this Court.

2. Learned Senior Counsel submits that after the investigation, the charge sheet is submitted against three functionaries of the college, while no material found against the accused-applicant, led to dropping the accusation against the accused-applicant.

3. Issue notice to opposite party no.2 returnable at an early date.

4. List on 09.02.2026 at 2:00 p.m.

5. In the meantime, the parties may exchange affidavits.

6. Considering the arguments raised by the learned Senior counsel that the trial court exceeded its jurisdiction in passing the impugned order, the further proceedings of Case No. (R), arising out of Case Crime No.260 of 2024, under Sections 506, 201, 120-B, 302 I.P.C., Police Station Madhuban, District Mau, pending before the court of Chief Judicial Magistrate, Mau, be stayed, qua the applicant.”

2. Sri M.C. Chaturvedi, learned A.A.G for the State submits that the matter be connected with above case and concedes that the accused-applicant has not been charge sheeted by the police and summoned directly by the Magistrate concerned.

3. Issue notice to opposite party no.2 returnable at an early date.

4. List and connect along with Application U/s 528 B.N.S.S. No.443 of 2026 (Sr. Seleen Mary Vs. State of U.P. and another), on 09.02.2026 at 2:00 p.m.

5. In the meantime, the parties may exchange affidavits.

6. Considering the arguments raised by the learned counsel for the

applicant that the trial court exceeded its jurisdiction in passing the impugned order, the further proceedings of Case No. (R), arising out of Case Crime No.260 of 2024, under Sections 506, 201, 120-B, 302 I.P.C., Police Station Madhuban, District Mau, pending before the court of Chief Judicial Magistrate, Mau, be stayed, qua the applicant.

(Avnish Saxena,J.)

January 20, 2026

Shivangi