

Court No. - 82

Case :- APPLICATION U/S 528 BNSS No. - 10316 of 2025

Applicant :- Surendra Prakash Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilesh Chandra Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Akhilesh Chandra Shukla, learned counsel for the applicant and Shri R. N. Srivastava, learned A.G.A. for the State-respondent.

2. The present application under Section 528 B.N.S.S. has been filed for quashing the summoning order dated 05.10.2024 passed by Additional Session Judge/Special Judge (P.C. Act), Court No.2, Bareilly and charge-sheet dated 05.10.2024 as well as entire proceeding of Special Case No.1972 of 2024, arising out of Case Crime No.1084 of 2018, under Sections 7, 13(1)A, 13(2) of P. C. Act and Sections 409, 120-B I.P.C., P.S. Civil Lines, District Moradabad, and with further prayer to pass an interim order staying the further proceeding of the aforesaid case during the pendency of the present application.

3. Learned counsel for the applicant submits that applicant was Assistant Engineer in Urban Ceiling Department and as per allegation, he alongwith other co-accused filed false report before the D. M. concerned but entire allegation levelled against the applicant is totally false.

4. He further submits that the alleged report submitted by the applicant is at page 170 of the paper book, which is a joint report and from its perusal, it reflects while submitting the report, the applicant quoted the opinion of D.G.C. (Civil) and it cannot be said to be based on false facts and merely on this basis, it cannot be said that applicant misused his position and committed the offence under the provisions of Prevention of Corruption Act but inspite of that very casually charge-sheet has been submitted against him and court concerned also took cognizance and issued summons to him.

5. He further submits that after considering the aforesaid facts, on 21.04.2025 the Co-ordinate Bench of this Court directed the learned A.G.A. to file counter affidavit within four weeks' but till

date, no counter affidavit has been filed by the State.

6. Per contra learned A.G.A. however, opposed the arguments advanced by learned counsel for the applicant but could not dispute the arguments on facts advanced by him.

7. He further could not dispute the fact that inspite of the fact that four weeks' time was given to him to file counter affidavit till date he could not file the counter affidavit.

8. Considering the argument advanced by learned counsel for the applicant, in view of this Court, matter requires consideration.

9. Learned A.G.A. is directed to file counter affidavit within two weeks' pursuant to the earlier order passed by this Court.

10. Rejoinder affidavit, if any, may be filed within two weeks' thereafter.

11. List this case on 04.08.2025 in top ten cases in the category of daily cause list.

12. In the meantime, further proceedings of aforesaid case shall remain stayed only in respect of the present applicant till the next date of hearing.

Order Date :- 1.7.2025

Zafar