



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 13044 of 2025

Smt. Deepti

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Birendra Singh, Swati Singh, Sr.
Advocate

Counsel for Opposite Party(s) : G.A., Rajesh Kumar Singh

Court No. - 81

HON'BLE AVNISH SAXENA, J.

1. Sri V.P.Srivastava, learned Senior Counsel assisted by Sri Virendra Singh, learned counsel for the accused-applicant appears and submits that by way of impugned order dated 25.03.2025 passed by C.J.M., Banda, the accused-applicant- Smt. Deepti has been summoned to face the trial for offence under Sections 34, 302, 201, 218 and 504 IPC, P.S. Kotwali Nagar, District Banda. It is the contention of learned senior counsel that initially the FIR was lodged by opposite party no.2 Smt. Pratima Singh against two named persons, namely, Gaurav Singh and Deepti Singh and one anonymous person for offence under Sections 352, 504, 302 IPC on 19.06.2022 at 2.58 hours at Kotwali Nagar, Banda for the offence occurred on 5.30 p.m. on 18.06.2022. It is an admitted fact that there was a work of laying drain in front of the houses of Gaurav Singh and Saurav Singh, who are brothers. On the issue of incorrect slope of the drain Gaurav Singh has tried to stop the work, which was objected by Saurav Singh. It is the brother of informant-Smt. Pratima Singh, who was called by Saurav Singh to bring bamboo cane on which he entered the house came along with Fawada and gave blow on Gaurav Singh, due to which Gaurav suffered injuries. Gaurav Singh then taken to the police station from where he was taken for medico legal examination, which was carried out on 18.06.2022 at 6.55 p.m. at District Hospital, Banda. It is a cross case. Subsequent to it, the victim-deceased/Abhishek fell on the ground and died. The post mortem report reveals that there were four ante mortem injuries, froth was coming from nostrils and mouth. The death

was not ascertained, which was subsequently found to be due to post traumatic cardio- pulmonary thrombo-embolism preceptitated by ante mortem trauma, as per the State Medico Legal Cell report. After the investigation the charge sheet is submitted against the husband of applicant, namely, Gaurav Singh for the offence under Sections 323, 504, 506 IPC. It is by way of impugned order that not only the accused-applicant but police officials who have investigated the case, send the S.R. report and forwarded the Parchas of Case Diary as well as the doctor who has conducted the post mortem have been summoned for the offence under Section 302/34, 201, 218, 504 IPC, wherein the Magistrate has disbelieved the entire investigation carried out by police as well as CBCID. Further submits that if the statements given by the witnesses is disbelieved by the Magistrate. There is no point in relying on the case diary and issuing summons to the accused for facing the trial. Learned counsel has drawn the attention of this Court towards the statement of eye witnesses particularly the statement of Vikrant Pratap Singh recorded under Section 161 Cr.P.C. On the basis of material collected, the Investigating Officer has submitted final report against the applicant-Smt. Deepti.

2. Learned Senior Counsel has reserved his right for further arguments after the argument raised by Sri Manish Tewary, learned Senior Counsel assisted by Sri Deepak Dubey, appearing for the opposite party.

3. It is already 4.10 p.m., in the other connected matters the arguments are still to be tendered, as such, list this matter again on 09.12.2025 at 3.00 p.m.

4. List along with connected matter on 09.12.2025 at 3.00 p.m.

(Avnish Saxena,J.)

December 3, 2025

Abhishek Sri.