



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 15281 of 2025

Shailendra Agrawal Alias Shailendra Kumar
Agrawal

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Bharat Bhushan Paul, Saurabh Paul
Counsel for Opposite Party(s) : G.A.

Court No. - 77

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Shri Bharat Bhushan Paul, learned counsel for the applicant and learned AGA for the State.
2. Learned counsel for the applicant submits that he has filed the instant application under Section 528 BNSS with the relief which has been mentioned in the prayer clause of the application.
3. The relief which has been mentioned in the application is delineated below:-

"It is, therefore, most respectfully prayed that this Hon'ble Court be pleased to quash the entire proceeding of Complaint Case No. 419/2019, U/s 138 Negotiable Instrument Act inre Radha Garg Vs. Anil Kumar Nigam, Director Neel Infra Structure & 4 others, pending before Prescribed Authority Additional Court No. 2, District Agra as well as summoning order dated 16-07-2019 & order dated 29-04-2022 & order dated 25-03-2025 issuing U/s 82 Cr.P.C. preceding passed by Prescribed Authority Additional Court No. 2, District Agra.

It is further prayed that this Hon'ble Court may kindly be pleased to stay the summoning order dated 16-07-2019 & order dated 29-04-2022 & order dated 25-03-2025 issuing U/s 82 Cr.P.C. preceding passed by Prescribed Authority Additional Court No. 2, District Agra passed in Complaint Case No. 419/2019, U/s 138 Negotiable Instrument Act inre Radha Garg Vs. Anil Kumar Nigam, Director Neel Infra Structure & 4

others, or be pleased to pass such other and further order as this Hon'ble Court may deem fit and proper in the circumstances of the case to meet the ends of justice."

4. Learned counsel for the applicant submits that opposite party No.2 has filed a Complaint Case No. 419/2019, Smt. Radha Garg Vs. Anil Kumar Nigam, Director Neel Infra Structure & 4 others, under Section 138 of the Negotiable Instrument Act.

5. Learned counsel for the applicant submits that co-accused Prabhat Mishra (serial No.4) in the complaint, is signatory to the cheque issued in favour of opposite party No.2 for an amount of Rs. 14 lakhs. Learned counsel for the applicant further submits that the Presiding Officer, vide order dated 16.07.2019, summoned Anil Kumar Nigam, Vinay Bhadoriya and Shailendra Agrawal under Section 138 of the N.I. Act.

6. Learned counsel for the applicant submits that the co-accused, Anil Kumar Nigam and Vinay Bhadoriya, have challenged the summoning order dated 16.07.2019 by filing an Application U/S 482 No.25079 of 2022 and a Coordinate Bench of this Court, vide order dated 02.09.2022, issued notice to opposite party No.2 and stayed further proceedings of the complaint case. The order dated 02.09.2022 passed by the coordinate Bench is delineated below:

"Supplementary affidavit filed today on behalf of the applicants, is taken on record.

Heard Sri Kashif Zaidi, learned counsel for the applicants and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.

By way of filing instant application u/s 482 Cr.P.C. applicants prayed for quashing the entire proceeding of complaint case No. 419 of 2019 under Section 138 N.I. Act, pending before Prescribed Authority Additional Court No. 2, District Agra as well as summoning order dated 16.7.2019.

Learned counsel for the applicants submitted that although applicants are Director of the Company, namely, NIIL Infrastructure Private Ltd. but they are not responsible for day-to-day working of the Company and even they are no signatory of the cheque in question and admittedly, the

cheque was issued by Prabhat Mishra, Managing Director of the Company. He next submitted that neither in the complaint nor in the affidavit, filed in support of the compliant, it is anywhere mentioned that applicants were also responsible for day-to-day business of the company.

Matter requires consideration.

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

Steps be taken within seven days.

Opposite party No. 2 may file counter affidavit within three weeks. Learned AGA who has accepted notice on behalf of the State-respondent, may also file counter affidavit within the same period.

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

List this case on 14.10.2022.

Till then, further proceedings pending against the applicants shall remain stayed in the aforesaid case.

However, it is made clear that proceeding in respect of other accused persons shall continue. "

7. Learned counsel for the applicant further submits that the applicant is also not signatory to the said cheque. This Court, adopting the principle of judicial discipline, as the coordinate Bench has stayed further proceedings of the pending complaint case in respect of co-accused Anil Kumar Nigam and Vinay Bhadoriya, deems it appropriate to pass the following order.

8. Issue notice to opposite party No.2, returnable at an early date.

9. Four weeks' time is granted for filing counter affidavit. Rejoinder affidavit may be filed within two weeks thereafter.

10. List this case along with Application under Section 482 No.25079 of 2022 on 29.04.2026.

11. Until further orders of this Court, the effect and operation of the summoning order dated 16.07.2019, order dated 29.04.2022 and order dated 25.03.2025, passed by the Prescribed Authority Additional Court No. 2, District Agra passed in Complaint Case No. 419/2019, under Section 138 Negotiable Instrument Act, Smt. Radha Garg Vs. Anil Kumar Nigam, Director Neel Infra Structure & 4 others, in respect of the applicant shall remain stayed.

(Praveen Kumar Giri,J.)

March 18, 2026

K.Tiwari