

Court No. - 79

Case :- APPLICATION U/S 528 BNSS No. - 20120 of 2025

Applicant :- Gajendra Singh

Opposite Party :- State Of U.P. And 4 Others

Counsel for Applicant :- Ramesh Chandra Yadav, Shiv Nath Singh

Counsel for Opposite Party :- G.A.

Hon'ble Prashant Kumar,J.

1. Heard Shri Ramesh Chandra Yadav, learned counsel appearing for the applicants, Shri Shashidhar Pandey, learned AGA for the State and perused the records.

2. The instant application has been filed by the applicants praying for quashing of the order dated 30-04-2025 passed by Chief Judicial Magistrate, Kanpur Dehat in Misc. Case No. 807 of 2018 (Gajendra Singh Vs. Shiva Ji and Others) arising out of case crime no. 321 of 2018, under Section 302 IPC, P.S. Derapur, district Kanpur Dehat.

3. Learned counsel for the applicant submits that the entire investigation in Case Crime No. 321 of 2018, under Section 302 I.P.C., P.S. Derapur, district Kanpur Dehat was conducted in a hurried and biased manner to favour the accused, as evident from the fact that the final report was submitted by the Investigating Officer on the very same day the F.I.R. was lodged, i.e., 03.12.2018 at 06:14 a.m., without proper collection or appreciation of material evidence. It is argued that the post mortem report clearly negates the theory of intoxication, as no alcohol was found in the liver of the deceased, yet the same was ignored. The learned Chief Judicial Magistrate initially accepted the final report without considering the detailed protest petition filed by the applicant/informant, and passed an erroneous order dated 22.09.2023, despite ample prosecutorial evidence. The said order was successfully challenged in revision before the learned Sessions Judge, Kanpur Dehat, who, by a detailed order dated 06.05.2024, allowed the revision and remanded the matter to the C.J.M. for reconsideration. However, even upon remand, the learned Magistrate again mechanically accepted the final report and rejected the protest petition by the impugned order dated 30.04.2025. It is contended that the impugned order is illegal, arbitrary, and passed without application of judicial mind, warranting interference by this Hon'ble Court under its inherent jurisdiction

4. Matter requires consideration.

5. Notice on behalf of the State has been accepted by learned A.G.A.

6. Issue notice to opposite party nos. 2 to 5 returnable at an early date. Steps be taken within one week.

7. The opposite parties are granted four weeks' time to file counter affidavit and the applicant will have two weeks' thereafter to file rejoinder affidavit.

8. List on 10-09-2025.

Order Date :- 1.7.2025

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