



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 22371 of 2025

Dinesh Nishad

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Gaurav Singh Yadav, Rajjan Singh Yadav

Counsel for Opposite Party(s) : G.A.

Court No. - 73

HON'BLE DEEPAK VERMA, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present 528 BNSS application has been filed to quash the entire proceeding of complaint case no. 9283 of 2024, under sections 138 of Negotiable Instrument Act (Anita Pathak Versus Dinesh Nishad), Police Station Kotwali District Gorakhpur, and as well as Summoning Order dated 27.09.2024, passed by the Court of ACJM-2nd, Gorakhpur, under sections 138 of Negotiable Instrument Act, Police Station - Kotwali District - Gorakhpur.
3. Learned counsel for the applicant submits that present complaint is premature and the cheque was bounced on 19.01.2024 with insufficient amount, thereafter, notice was sent on 31.01.2024 and complaint was lodged on 04.03.2024 before expiry of mandatory period. Summoning order is abuse of process of law. He therefore submits, no prosecution could proceed against the applicant, in such circumstances.
4. Matter requires consideration.
5. Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A.
6. Issue notice to opposite party no.2 returnable at an early date.

7. Opposite parties may file their counter affidavits within six weeks. Rejoinder affidavit may be filed within two weeks thereafter.

8. List thereafter.

9. Till the next date of listing, further proceedings against the applicant in complaint case no. 9283 of 2024, under sections 138 of Negotiable Instrument Act, Police Station Kotwali District Gorakhpur, pending in the Court of ACJM-2nd, Gorakhpur, shall remain **stayed**.

(Deepak Verma,J.)

February 16, 2026

Nitin Verma