



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**APPLICATION U/S 528 BNSS No. - 27567 of 2025**

Shabnam

.....Applicant(s)

Versus

State Of U.P And Another

.....Opposite  
Party(s)

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Counsel for Applicant(s) : Akhilesh Kumar  
Counsel for Opposite Party(s) : G.A.

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**Court No. - 92**

**HON'BLE RAM MANOHAR NARAYAN MISHRA, J.**

1. Heard learned counsel for the applicant and learned A.G.A. for the State-respondent and perused the material available on record.
3. Instant application under Section 528 BNSS, 2023 has been filed by the applicant through e-mode with prayer to quash the impugned judgment and order dated 11.07.2025 passed by learned Additional District and Session Judge Court, No.11, Saharanpur arising out of Case Crime No.72 of 2024, P.S. Sadar Bazar, District Saharanpur.
4. By the impugned order revisional court has set-aside the subsequent summoning order dated 17.09.2024 passed by learned Magistrate in Criminal Case No.4119 of 2024, under Sections 452, 504, 506, 354 IPC, whereby on application of the informant/victim, charge under Section 376 IPC has been added in penal sections and cognizance has been taken for charge under Section 376 IPC also against the accused.
5. Learned court has directed the court of first instance to hear the matter afresh, after giving opportunity of hearing to both sides and disposed of the application under Section 190(1) (b) Cr.P.C. filed by the applicant/victim in accordance with law in light of observations made regular judgment.
6. Learned counsel for the applicant submits that learned revisional court is directed itself while observing in the impugned order that once cognizance has been taken on police report, cognizance and any other

sections cannot be taken without sufficient and adequate reason and appearance of any further material in support of additional charge. Inasmuch as there are ample material in evidence collected during investigation with regard to charge under Section 376 IPC, but the investigating agency has wrongly dropped said charge in chargesheet.

7. Learned counsel for the applicant placed reliance on a judgment of this Court in **Sadab Vs. State of U.P. and another (Application U/s 482 No.29523 of 2022)**, wherein this Court affirmed the impugned of Magistrate, he took cognizance of charge under Section 376 IPC also and passed summoning order against accused to this section together with other sections, in which chargesheet was filed against the accused, in that case also the Investigation Officer has dropped charge under section 376 IPC in chargesheet.

8. Matter requires consideration.

9. Issue notice to respondent No.2, returnable at an early date, through CJM concerned.

10. Counter affidavit, if any, be filed by the next date of listing.

11. List this case on 28.10.2025, as fresh.

12. Till the next date of listing, the order of revisional court shall be kept in abeyance.

**(Ram Manohar Narayan Mishra,J.)**

**September 12, 2025**

Ashish/-