

Court No. - 74

Case :- APPLICATION U/S 528 BNSS No. - 29512 of 2025

Applicant :- Aslam

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- P.K. Singh, Sunil Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Pachori, J.

Sri P. K. Singh, learned counsel for the applicant and Sri Rahul Pandey, learned A.G.A. for the State are present.

The present application under Section 528 of Bharatiya Nagarik Suraksha Sanhita has been filed to quash the order dated 07.03.2024, passed by Additional Chief Judicial Magistrate, Court No. 1, Gautam Buddh Nagar, whereby discharge application under Section 250 of BNSS arising out of Complaint Case No. 1594 of 2012, under Sections 420, 406 IPC, P.S. Jarcha, District Gautam Buddh Nagar has been dismissed.

Learned counsel for the applicant submitted that impugned order has been passed without considering the facts & circumstances of the case and position of law. It is further submitted that complaint dated 03.08.2012 has been filed on the basis of false and frivolous allegations with ulterior motive and only to harass the applicant. It is further submitted that as per the allegations of complaint, all the allegations are related to purely civil nature with regard to oral contract to sell a truck by other co-accused Alok to the complainant. It is further submitted that the impugned order has been passed without applying the judicial mind. It is further submitted that the complainant has converted a civil dispute into a criminal case.

It is further submitted that cognizance order has been passed without considering the essential ingredients of offence punishable under Sections 406, 420 of I.P.C. for same set of acts respectively. Learned counsel for the applicants relied upon the judgment of Apex Court in **Delhi Race Club (1940) Ltd. vs. The State of Uttar Pradesh & Anr., 2024 SCC OnLine SC 2248.**

Prima facie, matter requires consideration.

Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A.

Issue notice to private opposite party no. 2 through C.J.M. concerned, returnable at an early date.

Private opposite party no. 2 may file a counter affidavit within three weeks.

Rejoinder affidavit may thereafter be filed within one week.

List this case after eight weeks.

Until further orders, effect and operation of the order dated 07.03.2024 shall remain stayed against the applicant.

Order Date :- 12.8.2025

MAA/-