



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 38611 of 2025

Bholanath Agrahari

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Avanish Kumar Shukla, Mithilesh
Kumar Shukla

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

Court No. - 75

HON'BLE SANJAY KUMAR PACHORI, J.

1. Heard Shri Mithilesh Kumar Shukla, learned counsel for the applicant and Shri Abhishek Kumar, learned A.G.A. for the State.
2. The present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita has been filed to quash the entire proceedings of Criminal Case No.2510 of 2024 (State of U.P. vs. Bholanathh Agrahari and others) arising out of Case Crime No. 318 of 2021, under Sections 420, 467, 468, 406, 506 of IPC, police station Panki, district Kanpur Nagar as well as cognizance/summoning order dated 6.1.2024 pending in the court of Special CJM, Kanpur Nagar.
3. Learned counsel for the applicant submit that the first information report dated 2.9.2021 has been lodged on the basis of false and frivolous allegations with ulterior motive and only to harass the present applicant. It is further submitted that as per the allegations of the F.I.R., the applicant executed a sale deed in favour of the husband of the first informant on 03.08.2016. Thereafter applicant executed a power of attorney (having no date) with regard to property in question in favour of co-accused Nancy Gupta, who attempted to construct over the plot of husband of the first informant. It is further submitted that the impugned F.I.R. has been lodged after five years of the incident. No civil suit is pending between the parties with regard to the subject matter of the FIR.
4. There is no pre-summoning evidence with regard to the offence as alleged against the applicant. The first informant converted a civil dispute

into a criminal case. It is further submitted that cognizance order has been passed without applying judicial mind as well as without considering the essential ingredients of the offence punishable under Section 406, 420 of I.P.C. for the same set of the act respectively. In support of his submission, learned counsel for the applicant relied upon a judgment of Apex Court in **Delhi Race Club (1940) Ltd. & Ors. Vs. State of Uttar Pradesh & Anr. 2024 SCC OnLine SC 2248.**

5. Prima facie, matter requires consideration.

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

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

8. Learned A.G.A. as well as learned counsel for the opposite party no. 2 may file counter affidavit within two weeks. Rejoinder affidavit may be filed within one week thereafter.

9. List after eight weeks.

10. Until further orders of this Court, further proceedings of the aforesaid case, shall remain stayed against the applicant.

(Sanjay Kumar Pachori,J.)

November 12, 2025

Sumaira