



2026:AHC:215937

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 44385 of 2026

Mohammad Waseem And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Udbhav Tripathi, Uma Shankar
Tripathi
Counsel for Opposite Party(s) : G.A.

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Heard learned counsel for applicants and Sri Jyoti Kumar Singh, learned AGA assisted by Sri Durgesh Kumar Tripathi, learned brief holder for the State and perused the record.

2. The present application under Section 528 of the BNSS has been filed by the applicants seeking to quash and set aside the impugned cognizance/summoning order dated 07.04.2026, passed by the learned Chief Judicial Magistrate, Court No. 7, Prayagraj and the entire proceeding of Case No.188/IX/2024 (State vs. Mohammad Waseem and others), arising out of Case Crime No.17 of 2026, under Sections 498A, 323, 504, 506 I.P.C. and 3/4 D.P. Act, P.S. Kareli, District Prayagraj and also to quash the charge sheet dated 27.3.2026.

3. The brief facts of the case are that an FIR was registered as Case Crime No. 17 of 2026, under Sections 85, 115(2), 352, 351(3), 75(2) and 75(3) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3/4 of the Dowry Prohibition Act, Police Station Kareli, District (Commissionerate Prayagraj), against the applicants and three other persons. After investigation, a charge sheet was submitted under Sections 85, 115(2), 352 and 351(3) of the BNS and Sections 3/4 of the Dowry Prohibition Act. However, while taking cognizance of the offences, the learned Magistrate passed an order taking cognizance under Sections 498A, 323 and 504 and Sections 3, 4 of the Dowry Prohibition Act. Furthermore, the impugned order neither satisfies the requirement of relevant penal statute

applicable to the time line of the alleged occurrence, nor bears the full signature and full name of the judicial officer under the signature. Aggrieved by the said order, the applicants has approached this Court.

4. Learned counsel for the applicants submits that the impugned order suffers from a manifest and complete non-application of judicial mind. It is contended that the FIR was registered under Sections 85, 115(2), 352, 351(3), 75(2) and 75(3) of the BNS and Sections 3/4 of the Dowry Prohibition Act. The learned Magistrate mechanically invoked provisions of the repealed IPC without examining the statutory scheme or the date of occurrence. The order lacks the name and full signature of the presiding officer under the signature, and appears to have been passed in a mechanical manner, which stands contrary to established judicial norms. The impugned order is therefore, liable to be set aside.

5. Per contra, learned A.G.A., appearing for the State, candidly concedes that the impugned order suffers from formal and procedural infirmities and does not explicitly reflect due application of judicial mind to the applicability of the relevant statutory provisions in the context of the transition from the IPC to the BNS.

6. According to the facts of the case, an FIR was registered as Case Crime No. 17 of 2026, under Sections 85, 115(2), 352, 351(3), 75(2), 75(3) of the BNS and Sections 3/4 of the Dowry Prohibition Act against the applicants and three other persons. After investigation, a charge sheet under Sections 85, 115(2), 352, 351(3) BNS and Sections 3/4 of the Dowry Prohibition Act was filed.

7. Taking cognizance of an offence under Section 210 of the BNSS is a judicial act, not a mere administrative or ministerial routine. The taking of cognizance marks the initiation of judicial proceedings against an individual and affects their fundamental liberty. It is a well-settled principle of criminal jurisprudence that an order taking cognizance must ex facie disclose that the Magistrate has perused the charge sheet, the witness statements and the material produced therewith. A mechanical endorsement demonstrates a failure to exercise jurisdiction.

8. In the present case, the learned Magistrate took cognizance under

Sections 498A, 323, 504 and Sections 3, 4 of the Dowry Prohibition Act without addressing the applicability of the statutory provisions governing the offence. Such routine reliance on outdated templates, without regard to the statutory framework governing the case, highlights a manifest lack of care and non-application of mind.

9. Apart from the facts of the case, learned counsel for the applicants stated that the applicants faced difficulties in obtaining certified copies of the order, because the name and detailed signature of the learned judicial officer were missing. It has also been submitted that, when orders are uploaded and perused, it becomes difficult to ascertain the name of the officer who passed the order.

10. Upon perusal of the order dated 7.4.2026, passed by learned Additional Chief Judicial Magistrate, Court No.7, Prayagraj, it appears that the operating portion of the order, the learned Magistrate's signature is not complete and only initials have been affixed. The name of the learned Magistrate is also not mentioned at the bottom of the order, from which it is not clear who passed the said order. In this regard, a Circular letter No. 9513, dated 19.07.2023 has been issued by this Court, which is as under:

"From,

Rajeev Bharti, HJS

Registrar General

High Court of Judicature at, Allahaabd.

To,

All the District and Sessions Judges/OSD(s)

All the Principal Judges, Family Courts

All the Presiding Officers of Commercial Courts MACTs &

LARRAs

State of Uttar Pradesh.

No. 9513 / Admin G-II Dated 19/07/2023

Sub: *Mentioning of full name by Presiding Officers below their signature in orders and judgements.*

Madam/Sir,

During the course of hearing Criminal Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. 1304 of 2023, Khalil Ahmad Alias Khalil Pradhan Vs. State of U.P. Thru. Prin. Secy. Home Deptt, U.P. Lko AND 2 Others, Hon'ble Court has observed that Presiding Officers are not mentioning their names below signature.

While enclosing a pdf copy of order dated 30.05.2023 of Hon'ble Court, I am directed to inform that Hon'ble Court has been pleased to direct that all the Presiding Officers shall mention their full name below their signature.

You, are therefore, requested to ensure strict compliance of the directions of Hon'ble Court in the aforesaid judgment, by all the concerned, under your supervision and administrative control, in letter and spirit.

With regards,

Encl:- As above

Yours faithfully

Sd/- 1

8/7/23

Registrar General"

11. It is needless to mention that this Court, by passing judicial orders in several petitions, has directed that the Presiding Officers/Presiding Judicial Officers shall mention their name, designation and I.D. number, below their signature on the judicial orders. In compliance with the direction of this Court, the Registrar General has issued several circulars from time to time directing the Presiding Officers of the District Courts to

mention their names, designation, and I.D. number below their signature. However, in this case, the Presiding Officer i.e. the then Additional Chief Judicial Magistrate, Court No.7, Prayagraj did not comply with the directions of this Court or the circular letter issued pursuant to the direction issued by this Court on judicial side. The learned Magistrate is advised to exercise due care to comply with the circular letters issued from time to time.

12. Hence, the cognizance order dated 7.4.2026 is hereby set-aside. The matter is remitted to the Court of Additional Chief Judicial Magistrate, Court No.7, Prayagraj for passing the order afresh.

13. Accordingly, this application filed under Section 528 BNSS is **disposed of.**

(Chawan Prakash,J.)

October 12, 2026

Md Faisal