2026:AHC:98379

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 1098 of 2026

Laik

.....Applicant(s)

Versus

State Of Up And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Saurabh Yadav
Counsel for Opposite Party(s)	:	G.A., Lalta Prasad, Prabhat Kumar Singh

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Along with :

1. **Application U/s 528 Bnss No. 822 of 2026:**
   Arbaz and another
   Versus
   State of U.P. and 3 others
2. **Application U/s 528 Bnss No. 6716 of 2026:**
   Aman
   Versus
   State of U.P. and 3 others

Court No. - 80

HON'BLE VIVEK KUMAR SINGH, J.

1. Supplementary affidavit filed today in Application U/S 528 B.N.S.S. No. 1098 of 2026, is taken on record.

2. Heard Sri Saurabh Yadav, learned counsel for the applicants, Sri Prabhat Kumar singh, learned counsel for the opposite party no. 4 and Sri Prashant Kumar Singh, learned A.G.A. for the State.

3. All three applications have been filed seeking quashing of the summoning order dated 31.10.2025 passed by learned Additional Session Judge/Special Judge (POCSO Act), Budaun, in Case Crime No. 360 of 2025, under Sections 137(2), 87, 70(2), 127(2) of B.N.S. and Section 5G/6 of POCSO Act (against applicants Laik, Arbaz, Rahul) and under Sections 87, 70(2), 127(2) of B.N.S. and Section 5G/6 of POCSO Act (against applicant Aman), Police Station Sahaswan, District Budaun.

3. Learned counsel for the applicants submitted that the proceeding initiated against the applicants is illegal and against the material available

on record; the material of investigation does not disclose commission of any alleged offences against the applicants and as such the proceedings initiated against the applicants including the impugned charge-sheet and cognizance/summoning order are liable to be quashed by this court.

4. Learned counsel for the applicants further submitted that the applicant Laik is not named in the F.I.R., lodged by the mother of the victim. When the victim was recovered and her statement was recorded under Section 180 of B.N.S.S., she claimed herself to be a major girl aged about 21 years and stated that she left her house on her own will on 28.08.2025 at 9:00 am and travelled to Delhi, where Nikah was performed with co-accused Shavej @ Gulli Dada. When the victim came to know that action has been taken against her brother-in-law, she came back to her home on 29.08.2025. No allegation has been levelled against Shavej @ Gulli Dada or any other co-accused. She further stated that no untoward incident was done by co-accused Shavej @ Gulli Dada. None of the applicants were nominated by the victim when her statement was recorded under Section 180 of B.N.S.S. The victim did not sustain any injury which is clear from perusal of her injury report.

5. It is further submitted by the learned counsel for the applicants that the victim was produced before the doctor for her medical examination on 01.09.2025, wherein she alleged that on 28.08.2025, she was abducted by the applicants as well as co-accused Shavej @ Gulli Dada and rape was committed on her by the accused persons. She was locked inside the house of Shavej @ Gulli Dada for a period of two days. The statement before the doctor is not corroborated with the medical evidence since no external injury was seen on the body of the victim at the time of her medical examination.

6. It is further submitted by the learned counsel for the applicants that right elbow and right knee of the victim were fused and her right wrist was also partially fused, but the doctor wrongly and illegally opined that the victim was aged about 17 years. In fact the victim was a major girl and in order to show that the victim was a minor girl, a school certificate was produced by the family members of the victim wherein her date of birth was mentioned as 06.05.2009. The alleged incident had taken place

on 28.08.2025, therefore, the victim was aged about 16 years and three months on the date of alleged incident. When statement of the victim was recorded under Section 183 of B.N.S.S., she stated, under pressure of her family members, that she was kidnapped by the applicants and other co-accused and rape was committed by four persons. The accused Arbaj, who was present at the place of incident, did not commit rape on her though he was instigated by accused Laik to commit rape. The aforesaid statement recorded under Section 183 of B.N.S.S. was made by the victim under pressure of her husband. The investigating officer, after due investigation, found that the applicants were innocent and they have been falsely implicated in this case and in fact the victim had a love affair with co-accused Shavej @ Gulli Dada. The investigating officer, after watching CCTV footage, came to know that the applicants were not involved in the alleged offence, therefore, they were not chargesheeted by the investigating officer on 29.10.2025. The learned trial court wrongly and illegally without considering the facts and circumstances of the case, took cognizance of the offence and applicants were also summoned vide impugned order dated 31.10.2025. There are a lot of contradictions in the statements of the victim and she is not a truthful witness. She stated that she was locked for two days, however, as per the prosecution case, she was recovered on the next date i.e. 29.08.2025, therefore, the victim is not a reliable witness and the investigating officer rightly and correctly exonerated the applicants.

7. Per contra, learned AGA as well as learned counsel for the opposite party no. 2 have vehemently opposed the prayer as made in the application and rebutted the stand taken up by learned counsel for applicants by way of submitting that the averments whatsoever has been raised by learned counsel for applicants is subject matter of trial and submitted that after considering the material available on record, charge-sheet has been submitted against the applicants upon which learned court concerned has rightly taken cognizance and summoned the applicants.

8. It is further submitted that this is a case of gang rape and the victim was subjected to rape by five persons. The victim was recovered on 29.08.2025 from house of accused Laik. As per the school certificate, the victim was aged about 16 years and as per her age certificate issued by

Chief Medical Officer concerned, she was aged about 17 years. The victim was a minor girl at the time of incident and the investigating officer in order to save the applicants, recorded false statement of the victim under Section 180 of B.N.S.S. which was never given by her. The victim had categorically stated in her statement recorded under Section 183 of B.N.S.S. that she was subjected to rape by the applicants and co-accused Shavej @ Gulli Dada and in spite of that the investigating officer did not submit chargesheet against the applicants. The investigating officer of the present case had hands in gloves with the applicants, therefore, they were exonerated by the investigating officer. The learned court rightly and correctly, considering the testimony of the victim recorded under Section 183 of B.N.S.S., summoned the applicants vide order dated 31.10.2025. It is further submitted that the disputed questions of fact cannot be considered at this stage and chargesheet cannot be quashed on account of minor contradictions in the statements of the victim. It is the function of the learned trial court who will appreciate the evidence at the appropriate stage and will pronounce judgment accordingly. This Court under this jurisdiction cannot appreciate evidence and at this state, it has to be seen as to whether a prima facie offence is made out or not. The victim was undoubtedly a minor girl and she stated in her statement recorded under Section 183 of B.N.S.S. that she was subjected to rape, therefore, from perusal of statements of the victim, a prima facie offence is made out and the summoning order dated 31.10.2025 cannot be interfered with. The learned trial court after considering the entire evidence on record, rightly and correctly, summoned the applicants to face criminal trial.

9. After hearing rival submissions extended by learned counsel for the parties and by bare perusal of record, there appears to be no illegality and impropriety in the impugned cognizance/summoning order and as such learned court concerned has rightly proceeded against the applicants.

10. In view thereof, the instant application under Section 528 of B.N.S.S. lacks merit and is hereby **dismissed**.

(Vivek Kumar Singh,J.)

April 30, 2026/A.P. Pandey

Digitally signed by :-
ANAND PRAKASH PANDEY
High Court of Judicature at Allahabad