2026:AHC:94858

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11398 of 2026

Hari Mohan Sharma Alias Monu And 3 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Sanjay Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 78

HON'BLE NAND PRABHA SHUKLA, J.

1. Heard Mr. Sanjay Singh, learned counsel for the applicants, Mr. Nand Lal, learned A.G.A. for the State and perused the record.

2. The present application under Section 528 B.N.S.S. has been filed with a prayer to allow the present application and to quash/set-aside the impugned order dated 14.01.2026 passed by Additional Sessions Judge/Fast Track, Court No. 01, Aligarh in S.T. No. 25 of 2025 (State Vs. Hari Mohan Sharma and others) as well as order dated 11.12.2025 passed by Additional Sessions Judge/Fast Track, Court No. 01, Aligarh in S.T. No. 25 of 2025 (State Vs. Hari Mohan Sharma and others), under Sections 498A, 323, 504, 506, 406, 376, 377, 313 IPC and 3/4 Dowry Prohibition Act, P.S.-Chandaus, District-Aligarh pertaining to Case Crime No. 20 of 2021.

3. The main submission of learned counsel for the applicants-accused is that the order framing charges dated 14.01.2026 passed by learned Additional Sessions Judge does not contain the necessary particulars as provided under Section 211 Cr.P.C., nor is in accordance with the format provided as per Form No. 32 of the Cr.P.C. It has also been submitted that the said order has been passed without application of mind in a cursory manner without taking into consideration the evidence available on record.

4. Counsel for the applicant further submits that Sections 211 and 212 of the Cr.P.C. (corresponding to Sections 234 and 235 of the BNSS) lay down the mandatory requirements for the form and contents of a charge. A properly

framed charge must:

"a. State the specific offence with which the accused is charged.

b. Mention the law and section under which the offence is punishable.

c. If the law gives the offence a specific name, the charge may describe it by that name alone.

d. If no specific name exists, enough of the offence's definition must be included to give the accused adequate notice."

e. State the time, place and person against whom the offence was committed, wherever such particulars are necessary to give clear notice.

5. Further, it has been emphasized that Section 211(5) Cr.P.C., provides that the fact that the charge made is equivalent to a statement that every legal condition required by law to constitute the offence was fulfilled in the particular case. This is a significant legal fiction which implies that the charge carries within it an implied assertion that all ingredients of the offence are satisfied.

6. Recently, the Hon'ble Supreme Court in **K. Anbazhagan Vs. State of Karnataka (2015) 6 SCC 86** reinforced that framing a charge is not a mere technicality, it is a judicial act with real consequences. A properly framed charge informs the accused of the specific allegation, allows them to prepare a meaningful defence, and prevents them from being ambushed by new or shifting accusations during trial. A poorly framed charge, on the other hand, creates the risk of either a miscarriage of justice against an innocent person or allowing a guilty person to escape on procedural grounds.

7. This is why courts are required to apply their minds carefully at the charge framing stage-not to conduct a mini-trial, but to ensure that the charge is grounded in available material, accurately describes the alleged offence, and gives the accused a genuine opportunity to contest it. The framing of charges is where judicial discretion and procedural safeguards converge, and any vagueness at this stage can set the wrong tone for everything that follows.

8. When a charge is poorly framed, when it is vague, omits essential particulars, it is technically defective. Indian Law takes a nuanced position here, one that balances procedural rigour with the practical need to prevent technical errors from derailing justice.

9. If an accused is not told clearly what they are being tried for, they cannot prepare a meaningful defence. They may be taken by surprise mid-trial. They may not know which witnesses to call, what alibi to establish, or which legal arguments to raise.

10. The Supreme Court in **V.C. Shukla Vs. State through CBI (1980) SCC (Crl.) 695** confirmed that while errors in framing charges may not always invalidate a trial, if such errors result in prejudice to the accused or affect the fairness of the trial, they could constitute valid grounds for overturning a conviction on appeal. The Himachal Pradesh High Court in **Court in its Motion Vs. Shankroo (1983) (Cri.) LJ 63** went further, holding that merely mentioning the section without stating the substance of the charge amounts to a serious procedural breach.

11. The guiding principle across all these decisions is consistent: **technicalities must not defeat justice, but prejudice to the accused cannot be ignored**. Courts are required to look at whether the substance of the accusation was communicated effectively, not just whether the paperwork was flawless."

12. Learned A.G.A. for the State could not dispute the aforesaid facts.

13. Accordingly, in the interest of justice and in light of the discussion as stated above, the order framing charges dated 14.01.2026 is hereby set aside and the matter is remitted back to the court concerned to reconsider and pass a fresh order in accordance with law as expeditiously as possible, preferably within a period of six weeks from the date of the order, after affording opportunity of hearing to both the parties, if there is no other legal impediment.

14. The present application is, accordingly, **allowed**.

April 28, 2026
Shivani Sri.

(Nand Prabha Shukla,J.)

Digitally signed by :-
SHIVANI SRIVASTAVA
High Court of Judicature at Allahabad