

**HIGH COURT OF JUDICATURE AT ALLAHABAD****APPLICATION U/S 528 BNSS No. - 46972 of 2025**

Noor Ahmad Ajahri

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Rajesh Kumar Pandey, Shesh
Mani
Counsel for Opposite Party(s) : G.A.

Court No. - 75**HON'BLE SAURABH SRIVASTAVA, J.**

1. Heard learned counsel for applicant and Sri Paritosh Kumar Malviya, learned AGA-I for the State.
2. The present application has been preferred challenging chargesheet dated 29.05.2023 and cognizance order dated 24.07.2024 along with entire proceedings of Special Case No.13275 of 2023 (State of U.P. Vs. Noor Ahmed Ajahri), arising out of Case Crime No.0206 of 2023, under Section 505(2) IPC, P.S. Puranpur, District Pilibhit, pending before learned Chief Judicial Magistrate, Pilibhit.
3. Brief facts of the present case are that Incharge Inspector of Puranpur Police Station received a video on his mobile phone wherein State President of Muslim Personal Law Board, Noor Ahmed Ajahri (accused/applicant) was giving statement against Government of Uttar Pradesh over death of Atiq and Ashraf by saying that Government in BJP ruled States is attempting to intimidate Muslims, and further alleged that despite the Court had awarded life imprisonment to Atiq Ahmed and Ashraf, they were killed as a result of a conspiracy by the Government under the regime of Yogi Adityanath. It was also stated in the video that BJP is not having faith in the Constitution and law and also they have trampled the Constitution into the ground.

4. On the basis of said viral video, the said Inspector lodge an FIR against applicant which was registered as Case Crime No.206 of 2023, under Section 153-A, 295-A IPC with the allegation that the accused, by his acts and statements, has been inciting religious frenzy and communal sentiments among members of a particular community, thereby creating hostility among the general public. It is further alleged that such acts are provoking people, out of hatred towards the government, to indulge in rioting and disturbances, which are likely to disrupt public peace and order. Such conduct of the accused constitutes a serious threat to communal harmony and law and order in the area. After registration of the said FIR, detailed investigation was conducted in shape of recording statements of witnesses which culminated into submission of chargesheet against applicant under Section 505(2) IPC, whereupon learned Chief Judicial Magistrate took cognizance of offence and summoned the applicant vide impugned order dated 24.07.2023.

5. Learned counsel for applicant contended that applicant is the State President of Muslim Personal Law Board and he used to participate in several news channels for debate to put Muslim Personal Law Board's views and on that capacity, he had expressed his view over the assassination of Atiq and Asharaf at Prayagraj. Learned counsel for applicant further submitted that in his statement, he had not stated any word which comes under the ambit of offence under Section 505(2) IPC. It has also been argued by learned counsel for applicant that without conducting fair investigation, the concerned Investigating Officer submitted chargesheet against applicant whereupon without applying its judicial mind, learned court concerned took cognizance of offence over the said chargesheet which is abuse of process of law and as such, same may be quashed.

6. Per contra, learned AGA vehemently opposed the prayer as made in the application by way of submitting that the contentions, which are sought to be raised on behalf of applicant, would relate to disputed questions of fact, and would involve appreciation of evidence. It is submitted that at the time of taking cognizance, only a prima facie case is to be seen and the court concerned is not expected to hold a mini trial.

7. After hearing the rival submissions extended by learned counsels for the parties and perusal of the entire material available on records, this Court finds that the only question which arises in this case is whether the act of applicant as alleged through narration of the FIR comes under the ambit of offence mentioned in Section 505(2) IPC or not?

8. For better appreciation, Section 505(2) I.P.C. which deals with making publication, or circulation of statements, rumors, or reports intended to promote enmity, hatred, or ill-will between different religious, racial, language, regional groups, castes, or communities, is reproduced hereinbelow:

"Statements creating or promoting enmity, hatred or ill-will between classes.— Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

9. By bare perusal of the narrations made in the FIR wherein it has been mentioned that applicant is accused of spreading religious excitement and communal feelings among a particular community which has the effect of creating hostility among people. The allegations also suggest that such actions may provoke people, out of hatred towards the government, to engage in rioting and disturbances, which can disturb public peace and order and as such, at this stage, it cannot be said that prima facie, no case is made.

10. At the stage of taking cognizance/summoning, the Magistrate is only required to record a prima facie opinion, based on the material on record, and is not expected to hold a mini trial or to examine the defence of the accused. In judgment rendered by Hon'ble Apex Court in case of **S.W. Palanitkar and Others v. State of Bihar and Another; (2002) 1 SCC 241**, it was held that the test which was required to be applied was whether there is "sufficient ground for proceeding" and not whether there is "sufficient ground for conviction". In the case of **Nupur Talwar**

v. Central Bureau of Investigation and Another; (2012) 11 SCC 465, it was reiterated that the limited purpose of consideration of material at the stage of issuing process being tentative as distinguished from the actual evidence produced during trial, the test to be applied at the stage was whether the material placed before the Magistrate was "sufficient for proceeding against the accused" and not "sufficient to prove and establish the guilt". At the stage of taking cognizance, a court's primary focus is to determine if a prima facie case exists, meaning whether there is sufficient evidence to suggest that an offense has been committed, and not to delve into the merits of the case or the evidence.

11. In view of the aforesaid facts and circumstances, the present application being devoid of merit, is hereby **dismissed**.

12. It is clarified that the above observations are only prima facie in nature and shall not be construed as an expression on the merits of the case, which shall be adjudicated during trial on the basis of evidence led by the parties.

March 16, 2026

Vivek Kr.

(Saurabh Srivastava,J.)