



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 33795 of 2026

Vikram Singh @ Vishwa Vikram Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Anand Kumar Dwivedi, Raj Kumar MishraCounsel for Opposite Party(s) : G.A.

Court No. - 79**HON'BLE SAURABH SRIVASTAVA, J.**

1. Heard learned counsel for the applicant and learned AGA for the State.
2. The present application has been preferred for seeking quashing of charge sheet dated 20.9.2023, cognizance/summoning order dated 21.12.2023 passed by learned Chief Judicial Magistrate, Agra and entire proceeding of Criminal Case no. 36009 of 2023 (State vs. Vishwa Vikram Singh and others) arising out of Case Crime no. 0678 of 2022 under sections 298, 504 IPC, PS- Sadar Bazar, District Agra.
3. Learned counsel for applicants has made only one submission before the Court that offences under Sections 298, 504 I.P.C. are non-cognizable and in view of the explanation to Section 2(d) Cr.P.C., the charge sheet filed by the Investigating Officer concerned cannot proceed as a police case and the same is liable to be proceeded with as a complaint case. In support of his submission, learned counsel of applicant has placed reliance upon the judgments passed in the case of **Shakila Bano and others Vs. State of U.P. and another, 2008 (61) ACC 636.**
4. Although, learned AGA opposed the prayer sought through the instant application but did not dispute the submissions so made by learned counsel for applicant.
5. Since only legal arguments have been raised at the behest of applicants, process to issue notice to opposite party no. 2 is hereby dispensed with.

6. Before proceeding further, the relevant provisions of Section 2 (d) of Cr.P.C. are being reproduced for ready reference as under:-

"2. Definitions.-In this Code, unless the context otherwise requires,-

(d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation.- A report made by a police officer in a case which discloses, after investigation, the commission of a non- cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant."

7. In view of the above explanation, charge sheet submitted by the concerned Investigating Officer in the present case under Sections 298, 504 I.P.C. shall be treated as complaint and it is to be decided as complaint and the learned Magistrate fell in legal error by taking cognizance as State case and the orders passed by him is, therefore, liable to be set aside.

8. In view thereof, order dated 21.12.2023 passed by learned Chief Judicial Magistrate, Agra summoning the applicant on the basis of chargesheet submitted by concerned Investigating Officer under Sections 298, 504 I.P.C. treating the same as State case, is **set aside** only in respect of applicant(s) herein.

9. Accordingly, the instant application is **partly allowed**.

10. However, it is made clear that this order shall not preclude the learned court concerned to proceed with the case treating it as complaint case, if required, in accordance with law.

11. The above mentioned order has been passed in pursuance to the mandatory provision of law which provides to prefer complaint in case of non-cognizable offences but at the same time the documents which have been appended along with affidavit in support of the application, crystal clearly shows that compulsion has been created by the superior authorities of "V Bazar" for wearing Santa Claus Red Cap which is somehow hurting

the sentiments of the different faith and beliefs and this type of action is not permitted in the democratic system of the country wherein every citizen is free to follow his/her faith and belief. Applicant along with his superior authorities are hereby **warned** not to repeat this type of instructions in shape of disturbing the peaceful and harmonious atmosphere of the working place amongst their employees.

(Saurabh Srivastava,J.)

September 10, 2026

Shaswat