



2026:AHC:56120

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 47677 of 2025

Rev. Fr. Vineet Vincent Pereira Alias Father Vineet
Vinicent Paresh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Gaurav Tripathi
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for applicant and learned AGA for the State-respondent.
2. The present application has been preferred challenging chargesheet dated 19.02.2024 and cognizance order dated 18.05.2024 along with entire proceedings of Case No.15543 of 2024 (State Vs. Vineet Vincent Pereira), arising out of Case Crime No.304 of 2023, under Section 295A IPC, P.S. Muhammadabad, District Mau, pending before learned Judicial Magistrate, Mau.
3. Learned counsel for applicant argued that applicant has been falsely implicated in the present case by opposite party no.2 only to harass him since no offence as alleged, has ever been committed by him in shape of converting the religion of the marginalized section of the society illegally as well as speaking against other religions. It has also been argued by learned counsel for applicant that during investigation, it has already been concluded by the concerned Investigating Officer that no illegal conversion of religion has ever been done by the applicant. Insofar as the allegation in respect of criticizing other religions is concerned, learned counsel for applicant has submitted that by perusal of the narration of the FIR, no case is made out against applicant under Section 295-A IPC. Learned counsel for applicant further submitted that there is hardly any evidence against applicant to corroborate him with the alleged offence. 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.

4. 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.

5. 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 295-A IPC or not?

6. For better appreciation, Section 295A of I.P.C. which deals with deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious belief, is reproduced hereinbelow:

"295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.--Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [citizens of India], [by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to [three years], or with fine, or with both."

7. By bare perusal of the narrations made in the FIR wherein it has been mentioned that in his prayer meet, applicant frequently states that there is only one religion which is Christian and also hurts the sentiments of a particular religion i.e. Hindu, whereas India is a land where people of all faiths and beliefs in secular state as defined by Constitution of India, live together, therefore, it is wrong for any religion to claim that it is the only true religion as it implies a disparagement of other faiths. The opening line of the said provision itself speaks about deliberate and malicious intention of outraging the religious feelings of any class of citizen by insulting its religion or religious faith, meaning thereby, the act of the applicant comes under the ambit of Section 295-A IPC and as such, at this stage, it cannot be said that prima facie, no case is made. All the submission made at the bar, relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under Section 528 BNSS.

8. 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.

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

10. However, it is made clear that this order shall not preclude the applicant from availing the remedies which are available to him as per law.

March 18, 2026

Vivek Kr.

(Saurabh Srivastava,J.)