



2026:AHC-LKO:46740

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. – 1258 of 2026

Adeem Ali

.....Appellant(s)

Versus

State of U.P. Thru. Prin. Secy.
Home Lko. And 2 Others

.....Respondents(s)

Counsel for Appellant(s)	: Ajeet Kumar Singh
Counsel for Respondent(s)	: G.A.

Court No. – 27

A.F.R

HON'BLE ZAFEER AHMAD, J.

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. The present criminal appeal has been preferred by the appellant seeking to set aside the impugned order dated 25.03.2026 passed by the learned Special Judge (SC/ST Act), Lakhimpur Kheri in Special Trial No. 28 of 2026, arising out of Case Crime No. 833 of 2025, under Section 69 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station Kotwali Sadar, District Lakhimpur Kheri, whereby the cognizance has been taken and the appellant has been summoned.

3. Learned counsel for the appellant submits that the impugned order has been passed without due application of judicial mind and without proper consideration of the evidence collected during investigation. It is further submitted that the order dated 25.03.2026 is cryptic and non-speaking. The learned trial court has also failed to take into consideration its earlier order dated 29.10.2025 whereby judicial remand of the appellant in respect of the offences under Section 69 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act was refused.
4. It is further contended that the Investigating Officer had no authority to add offences in respect of which the trial court had already declined judicial remand. It is submitted that the Investigating Officer by merely recording the statements of two witnesses sought to circumvent the judicial order dated 29.10.2025 and frustrate its effect. Learned counsel also submits that a bare perusal of the First Information Report and the statements recorded under Sections 180 and 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 does not disclose that the victim belongs to a Scheduled Caste.
5. Learned counsel for the appellant in the support of his submission has placed relied on the judgment of the Hon'ble Supreme Court passed in *Sonu v. State of U.P.*, (2021) 18 SCC 517; *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608 and *Hitesh Verma v. State of Uttarakhand*, (2020) 10 SCC 710.

6. Per contra, learned A.G.A. opposed the appeal and submitted that during the course of investigation, the Investigating Officer recorded the statements of two witnesses and on the basis of the material so collected submitted a charge-sheet under Section 69 of BNS, 2023 and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the SC/ST Act. It is further submitted that while taking cognizance, the learned trial court duly considered the material available on record and followed the settled principles governing the exercise of such jurisdiction.
7. To buttress his submissions, learned A.G.A. placed reliance upon the judgment of the Hon'ble Supreme Court in ***Bhushan Kumar v. State (NCT of Delhi)*, (2012) 5 SCC 424.**
8. The scope of interference with an order taking cognizance and issuing process is fairly well settled. “*Cognizance*,” under Section 210 of the BNSS, 2023, refers to the Magistrate’s application of judicial mind to the material on record so as to take judicial notice of an offence; “*summoning*,” under Section 227 of the BNSS, 2023, is the subsequent and distinct step of compelling the accused’s appearance in consequence of that cognizance. The two, though frequently recorded in a single order, are conceptually separate stages of the proceeding. At the stage of taking cognizance, the Court is not expected to undertake a meticulous appreciation of the evidence collected during investigation or adjudicate upon the probable defence of the accused. The jurisdiction is confined to examining whether the material, prima

facie discloses the commission of an offence and furnishes sufficient ground for proceeding.

9. Furthermore, while an order taking cognizance need not be elaborate, it must disclose application of judicial mind to the material collected during investigation; and that the subsequent summoning order, being a consequence of cognizance validly taken, requires no separate or explicit reasons of its own. This position stands settled in *Bhushan Kumar (supra)*, where it was held that a summoning order under Section 204 Cr.P.C. (now Section 227 BNSS) requires no explicit reasons, so long as it is evident that the Magistrate took notice of the accusations and applied his mind to the police report and material filed with it, the satisfaction recorded at the stage of cognizance being sufficient to sustain the process issued thereafter.
10. Keeping the aforesaid principles in view, this Court has examined the impugned order as well as the material collected during investigation.
11. A perusal of the impugned order dated 25.03.2026 indicates that the learned Special Judge has considered the police report and the statements recorded during investigation before arriving at the conclusion that sufficient grounds exist for proceeding against the appellant. The learned trial court has specifically recorded that the material collected during investigation prima facie discloses the commission of the offences alleged and that the issues raised by the defence require appreciation of evidence during the course of trial. Merely because the order is concise or does not contain an

elaborate discussion of each piece of evidence cannot, by itself, lead to the conclusion that it has been passed without application of judicial mind. At the stage of taking cognizance, a detailed evaluation of the evidence is neither contemplated nor permissible.

12. The contention that the Investigating Officer lacked authority to invoke the provisions of Section 69 of the BNS, 2023 and the provisions of SC/ST Act, 1989 after the learned trial court had earlier declined judicial remand under those provisions also does not merit acceptance.

13. An order refusing judicial remand is passed at a distinct stage of the criminal proceedings and serves a purpose entirely different from an order taking cognizance. Such an order neither amounts to an adjudication upon the legality of the investigation nor operates as a judicial determination that the offences in question are not made out. It certainly does not curtail the statutory authority of the Investigating Officer to continue the investigation, collect further material and submit an appropriate police report under the provisions of the BNSS, 2023. Consequently, merely because judicial remand was earlier declined would not, by itself, preclude the Investigating Officer from conducting further investigation or prevent the trial court from independently considering the police report at the stage of taking cognizance.

14. Reliance placed by learned counsel for the appellant on *Hitesh Verma (supra)*, and *Pramod Suryabhan Pawar (supra)*, does not advance the case for interference at this stage. *Hitesh Verma*

(supra) lays down that an offence under the SC/ST Act requires proof that the insult or intimidation occurred specifically because of the victim's caste, and that it took place within public view, both being matters that turn on appreciation of evidence and are to be tested at trial, not foreclosed at the stage of cognizance where the material, taken at face value discloses the ingredients alleged. Similarly, the test laid down in *Pramod Suryabhan Pawar (supra)*, that a promise of marriage must be shown to have been false at its inception and made in bad faith to attract the offence, goes to a factual determination which the impugned order was not required to resolve at the threshold; it remains a matter for trial. Reliance on *Sonu (supra)*, stands on the same footing and does not assist the appellant at this stage for the same reason.

15. The submission that the victim's caste status is not disclosed from a bare perusal of the FIR and the statements under Sections 180 and 183 BNSS is, likewise, a matter going to the sufficiency of evidence, and is accordingly a matter for trial. It cannot be adjudicated by this Court at the stage of examining the correctness of an order taking cognizance, without weighing the material in a manner impermissible at this stage.

16. For the reasons recorded above, this Court finds no infirmity in the impugned order dated 25.03.2026 warranting interference. The submissions urged on behalf of the appellant, including those touching upon the effect of the earlier order refusing judicial remand and the sufficiency of material regarding the victim's caste, are matters that stand open to be urged before the trial court

in the course of trial, and cannot furnish ground for setting aside the order taking cognizance.

17. Accordingly the criminal appeal is **dismissed** at the admission stage.

18. Any observation made in this order shall not be construed as an expression of opinion on the merits of the case, and the trial court shall proceed with the trial uninfluenced by anything stated herein.

19. Let a copy of this order be sent to the court concerned for information and compliance.

(Zafeer Ahmad, J.)

July 15, 2026
kanhaiya