



2026:AHC:185364

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 28250 of 2026

Avdhesh Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Gyan Prakash Singh, Prabhakant Singh
Counsel for Opposite Party(s) : G.A.

Court No. - 79

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard learned counsel for applicant and learned AGA for the State.
2. Vide order dated 14.08.2026, notice was issued to opposite party no.2 but in spite of the best efforts made by concerned police authorities, whereabouts of opposite party no.2 could not be traced out over the name and address mentioned in the FIR, in such circumstance, there is no option left but to consider the prayer sought through the instant application on the basis of pleadings available on record as on today.
3. The present application has been preferred for seeking quashing of chargesheet dated 07.09.2025 as well as cognizance/summoning order dated 15.11.2025 alongwith entire criminal proceedings of the case arising out of Case Crime No.06 of 2025, under Section 106 BNS, P.S. Kakadev, District Kanpur Nagar, pending in the court of learned Judicial Magistrate, Court No.1, Kanpur Nagar.
4. Brief facts of the present case are that opposite party no.2 lodged an FIR against applicant on 09.01.2025, alleging that his son was residing as a tenant in the house of the applicant at Kanpur Nagar for the last about eight months while preparing for IIT examination. On 01.12.2025, opposite party no.2 received information regarding death of his son, upon receiving the information, he reached the place of occurrence, where he was informed that the body of his son had been found inside the bathroom under suspicious circumstances. It was alleged in the FIR that a gas geyser was installed in the bathroom of the applicant's house and that Carbon Monoxide gas might have been emitted from the said geyser. It was further alleged that there was hardly any ventilation in the bathroom and, due to inhalation of the said gas, the son of opposite party no.2 expired. After lodging of the FIR bearing Case

Crime No.06 of 2025, under Section 106 BNS, detailed investigation was carried out which culminated into submission of chargesheet against applicant under Section 106 BNS whereupon cognizance of offence was taken by learned court concerned vide order dated 15.11.2025 which impugned the present application.

5. Learned counsel for applicant argued that by bare perusal of the entire material available on record, it is apparent that there is hardly any gross rash or negligence act on the part of applicant and as such, no offence under Section 106 BNS is made out. It is next contended that even if the entire prosecution story is taken at its face value, no prima facie offence is made out against the applicant as the allegation does not disclose any specific participation of applicant in the commission of the alleged offence and as such, continuation of the criminal proceedings against him, in absence of any credible material, would therefore amount to abuse of the process of the Court.

6. Per contra, learned AGA vehemently opposed the prayer as made in the application by way of submitting that as per the statement of concerned doctor who conducted post mortem of the deceased, it was found that death of child was occurred due to emission of Carbonmono Oxide. He next argued 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.

7. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the principal allegation against applicant is that a gas geyser was installed in the bathroom of the premises owned by him and that the bathroom allegedly had inadequate ventilation, due to which the deceased might have inhaled Carbon Monoxide gas. Undoubtedly, the death of a young student is unfortunate, however, for fastening criminal liability under Section 106 BNS, mere occurrence of death in the premises of the applicant would not, by itself, be sufficient, there must be prima facie material showing a rash or negligent act attributable to the accused which had a direct and proximate nexus with the death.

8. In the present case, except for the fact that the applicant is the owner/landlord of the premises in which the gas geyser was installed, no specific act of gross negligence has been attributed to him. There is no material on record to indicate that the geyser was installed by the applicant in violation of any prescribed safety standard, that it was defective to the knowledge of the applicant, that any complaint regarding leakage or

malfunctioning of the geyser had earlier been made to him, or that despite being made aware of any such defect or danger, he deliberately failed to take corrective measures. It is also relevant that the deceased had been residing as a tenant in the premises for about eight months and no material has been brought on record showing that during the said period, any complaint regarding the geyser, ventilation of the bathroom or any other hazardous condition had ever been communicated to the applicant. In the absence of such material, an inference of criminal negligence cannot be drawn merely because the unfortunate incident occurred in a bathroom situated in the applicant's house. The criminal law cannot be set in motion merely on the basis of conjecture that, since a gas geyser was installed in a bathroom having insufficient ventilation, the landlord must necessarily be held criminally responsible for the resultant death.

9. In the present case, the essential link between the alleged negligent condition and any specific rash or negligent act on the part of the applicant is absent. Mere ownership of the premises cannot create vicarious criminal liability for an accidental death unless the prosecution material discloses a legally attributable negligent act or omission on the part of the owner. Consequently, the ingredients necessary for constituting an offence under Section 106 BNS are not prima facie made out against the applicant.

10. In view of the aforementioned facts and circumstances, chargesheet dated 07.09.2025 as well as cognizance/summoning order dated 15.11.2025 alongwith entire criminal proceedings of the case arising out of Case Crime No.06 of 2025, under Section 106 BNS, P.S. Kakadev, District Kanpur Nagar, pending in the court of learned Judicial Magistrate, Court No.1, Kanpur Nagar, are hereby quashed.

11. Accordingly, the instant application is **allowed**.

September 2, 2026

Vivek Kr.

(Saurabh Srivastava,J.)