



2026:AHC:201481

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11303 of 2026

Nirmala Devi

.....Applicant(s)

Versus

State of UP and another

.....Opposite Party(s)

Counsel for Applicant(s)	: Raghuvansh Misra
Counsel for Opposite Party(s)	: Sudhanshoo Shukla, Taniya Pandey, G.A.

Reserved On : 17.07.2026

Delivered On : 24.09.2026

Court No. - 83

HON'BLE CHAWAN PRAKASH, J.

1. Heard Mr. Raghuvansh Misra, learned counsel for the applicant, Ms. Taniya Pandey, learned counsel for opposite party No.2, Sri Jyoti Singh, learned A.G.A. for the State and perused the record.

2. The present application under Section 528 of the B.N.S.S. has been filed with a prayer to quash the charge sheet dated 10.09.2025, the cognizance/summoning order dated 03.01.2026, and the entire proceedings in Case No. 159 of 2026 (State v. Nirmala Devi), arising out of Case Crime No. 109 of 2025, under Sections 80(2), 85, 61, and 115(2) of the B.N.S., and Sections 3/4 of the D.P. Act, Police Station Tundla, District Firozabad, pending before the Chief Judicial Magistrate, Firozabad.

3. The prosecution case, in brief, is as follows; the marriage between the applicant's son and sister of opposite party No.2 was solemnized on 4.5.2021. On 18.2.2025, the deceased was found unconscious at the matrimonial home during the night of 18/19.2.2025. She was initially hospitalized at Laxmi Hospital, Firozabad, and was subsequently transferred to Ujala Cygnus Rainbow Hospital, Agra, where she ultimately passed away on 25.2.2025. As per the post mortem report, the cause of death was shock resulting from myocardial infarction. The opposite party No.2 lodged a Zero FIR, as Case Crime No.001 of 2025 under Sections 80(2), 85, 61, 115(2) BNS and Section 3/4 D.P. Act against the applicant, her daughter and her son. Subsequently, the said zero FIR was transferred to the police station having territorial jurisdiction and was registered as Case Crime No.109 of 2025 at Police Station Tundla, District Firozabad, under Sections 80, 115(2), 61, 85 BNS and Section 3/4 D.P. Act. After investigation charge sheet was filed on 10.9.2025 and cognizance was taken on 3.1.2025.

4. Learned counsel for the applicants submits that the applicant is the mother-in-law of the deceased. It is further submitted that the deceased was married to the applicant's son on 04.05.2021 according to Hindu rites and rituals. The applicant neither demanded additional dowry nor subjected her to any harassment or cruelty in connection therewith. On 18.02.2025, the deceased was admitted to Lakshmi Hospital Trauma and Critical Care with complaints of pyrexia, headache, and seizures. She was subsequently referred to a higher centre on 19.02.2025. The deceased was admitted to Ujala Cygnus Rainbow Hospital on 19.02.2025 at 9:02 A.M. An MRI of the brain of deceased was conducted on 20.02.2025 at Element Diagnostics, which revealed abnormalities and led to a suspected diagnosis of viral encephalitis. During the course of treatment, the deceased passed away on 25.02.2025 at 6:01 A.M.

5. The death summary issued by Ujala Cygnus Rainbow Hospital, recorded the cause of death as cardiopulmonary arrest, with a provisional diagnosis of fever with seizures and meningitis. He further submits, that

the deceased had been suffering from fever, chills, and headaches for a few days before her condition progressed to multiple episodes of vomiting, followed by altered sensorium and frothing from the oral cavity. The deceased was managed in the Neuro ICU with antibiotics and antiepileptic medication, and mannitol and symptomatic treatment were administered. However, there was a sudden decline in her Glasgow Coma Scale (GCS) score, followed by cardiac arrest. The deceased was placed on life support, and CPR was initiated; however, despite continuous efforts, she could not be revived. The post-mortem examination of the deceased was conducted on 25.02.2025 at 5:00 P.M., during which contusions and abrasions were observed on her left and right shoulders. The cause of death was opined to be shock resulting from myocardial infarction.

6. Learned counsel for the applicant submits that, it is an admitted fact that opposite party no. 2 was informed telephonically on 19.02.2025, when the deceased had been admitted to Lakshmi Hospital. During the inquest proceedings, the witnesses stated, that the deceased had died due to medical complications. A Zero FIR was registered as Case Crime No. 001 of 2025 under Sections 80(2), 85, 61, and 115(2) of the B.N.S., and Sections 3/4 of the Dowry Prohibition Act, against the husband, mother-in-law/applicant, and sisters-in-law of the deceased. Subsequently, the said Zero FIR was transferred to the police station having territorial jurisdiction and was thereafter registered as Case Crime No. 109 of 2025 at Police Station Tundla, District Firozabad, under Sections 115(2), 61, 80(2), and 85 of the B.N.S., and Sections 3/4 of the D.P. Act. He further submits, that the death of the deceased was purely natural and occurred as a result of a cardiac arrest arising from medical complications. It is emphatically contended that the deceased died due to cardiac failure and that, there is no allegation or material to indicate that her death was caused by any bodily injury, burns, poisoning, or any other form of external or unnatural cause. Consequently, the essential ingredients of Section 80(2) of the BNS, particularly that the death must be an "unnatural death" or must have

occurred "otherwise than under normal circumstances," are not satisfied in the facts and circumstances of the present case.

7. Learned counsel for the applicant has placed reliance on the judgments of the Hon'ble Supreme Court in **Babu Bhai v. State of Gujarat**, (2010) 12 SCC 254; **State of Gujarat v. Afroz Mohammad Hasanfatta**, (2019) 20 SCC 359; and **Haji Iqbal v. State of U.P. and Others**, (2023) 20 SCC 209. It is, therefore, submitted that the allegations contained in the FIR, even if taken at face value, do not disclose the necessary ingredients of the offences, alleged against the applicant. The continuation of the criminal proceedings against the applicant, in the absence of the essential ingredients of the alleged offences, would amount to an abuse of the process of law and cause unnecessary harassment to the applicant. Therefore, the present proceedings are liable to be quashed.

8. Per contra, learned A.G.A. for the State and learned counsel for opposite party No. 2 have vehemently opposed the application and contended that the deceased, Pratibha Yadav @ Pooja, was married to Krishnakant Yadav, the applicant's son, on 04.05.2021. Sufficient dowry was given before and at the time of the marriage, but the deceased's husband and in-laws were not satisfied with it. The applicant received a total sum of Rs.16,25,000 through RTGS transfers directly into her personal bank account, comprising Rs.6,75,000 on 12.03.2021 and Rs.9,50,000 on 27.07.2021, from the bank accounts of the deceased's father and mother. A further sum of Rs.7,00,000 was paid in cash at the time of the wedding, bringing the total dowry to Rs.23,25,000. These payments were made pursuant to coercive demands by the applicant and her family members.

9. Learned counsel for opposite party No. 2 further submits that, even after the marriage, the deceased continued to be subjected to persistent dowry demands, harassment, and cruelty at her matrimonial home. The conduct of the applicant and her family became so oppressive that, unable to endure the continuous cruelty, the deceased left the matrimonial home and returned to her parental home on 22.06.2024. She

returned to the matrimonial home on 25.01.2025, following repeated requests and assurances from her in-laws in connection with the wedding of her brother-in-law. On 15.02.2025, the deceased informed her mother that she had been physically dragged and assaulted by the applicant and Sapna Yadav, her sister-in-law. On 18.02.2025, she spoke to her mother for the last time. She was found unconscious at the matrimonial home on the night of 18/19.02.2025. She was initially hospitalized at Lakshmi Hospital, Firozabad, and was subsequently transferred to Ujala Cygnus Rainbow Hospital, Agra, where she ultimately passed away on 25.02.2025. Learned counsel further submits that the death summary mentions "fever with seizures / ?meningitis," wherein the question mark indicates a suspected, rather than a confirmed, diagnosis. Learned counsel further submits that it is a well-settled principle of the law of evidence that a post-mortem report, by itself, does not constitute substantive piece of evidence. The post-mortem report is merely a prior statement made by the doctor on the basis of his examination of the deceased's body. It may be used to corroborate the doctor's testimony in court, refresh his memory, or contradict him. It is the doctor's oral deposition in court that constitutes substantive evidence, and not the written report, upon which a court may rely to reach at factual conclusions. Learned counsel further submits that the deceased died within seven years of her marriage and, according to the prosecution, was subjected to cruelty and harassment in connection with a demand for dowry, soon before her death. It is, therefore, contended that the aforesaid facts and circumstances prima facie satisfy the essential ingredients of Section 80(2) of the BNS. It is, therefore, contended that the allegations made in the FIR and the material collected during the investigation disclose the commission of the alleged offence by the applicant, and that no ground for interference is made out at this stage.

10. Learned counsel for applicant relied upon the following judgments of Hon'ble Supreme Court.

In **Babu Bhai Vs. State of Gujarat (2010) 12 SCC 254**, the Hon'ble Supreme Court has held as under:

"32. The investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the investigating officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The investigating officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The investigating officer "is not merely to bolster up a prosecution case with such evidence as may enable the court to record a conviction but to bring out the real unvarnished truth". (Vide R.P. Kapur v. State of Punjab, Jamuna Chaudhary v. State of Bihar, SCC at p. 780, para 11 and Mahmood v. State of U.P.)"

In State of Gujarat Vs. Afroz Mohammed Hasanfatta (2019) 20 SCC 539, the Hon'ble Supreme Court has held as under:

"21. In summoning the accused, it is not necessary for the Magistrate to examine the merits and demerits of the case and whether the materials collected is adequate for supporting the conviction. The court is not required to evaluate the evidence and its merits... At the stage of taking cognizance of the offence based upon a police report and for issuance of summons under Section 204 Cr.P.C., detailed enquiry regarding the merits and demerits of the case is not required. The fact that after investigation of the case, the police has filed charge sheet along with the materials thereon may be considered as sufficient ground for proceeding for issuance of summons under Section 204 Cr.P.C."

39. For issuance of process against the accused, it has to be seen only whether there is sufficient ground for proceeding against the accused. At the stage of issuance of process, the Court is not required to weigh the evidentiary value of the materials on record. The Court must apply its mind to the allegations in the charge sheet and the evidence produced and satisfy itself that there is sufficient ground to proceed against the accused. The Court is not to examine the merits and demerits of the case and not to determine the adequacy of the evidence for holding the accused guilty. The Court is also not required to embark upon the possible defences. Likewise, 'possible defences' need not be taken into consideration at the time of issuing process unless there is an ex-facie defence such as a legal bar or if in law the accused is not liable. [Vide Nupur Talwar v. Central Bureau of Investigation and another (2012) 11 SCC 465]"

In Haji Iqbal Vs. State of U.P. and others (2023) 20 SCC 209, the Hon'ble Supreme Court has held as under:

"15. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for

wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.

16. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

17. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

11. On the other hand, learned counsel appearing on behalf of opposite party No.2, relied upon the following case law.

In **Bhushan Kumar & Anr. V. State (NCT of Delhi) & Anr. CrI. Appeal No.612 of 2012, decide on 4.4.2012**, the Hon'ble Supreme Court has held as under:

"10. Section 204 of the Code does not mandate the Magistrate to explicitly state the reasons for issuance of summons. It clearly states that if in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, then the summons may be issued. This section mandates the Magistrate to form an opinion as to whether there exists a sufficient ground for summons to be issued but it is nowhere mentioned in the section that the explicit narration of the same is mandatory, meaning thereby that it is not a pre-requisite for deciding the validity of the summons issued.

11. Time and again it has been stated by this Court that the summoning order under Section 204 of the Code requires no explicit reasons to be stated because it is imperative that the Magistrate must have taken notice of the accusations and applied his mind to the allegations made in the police report and the materials filed therewith.

16. This being the settled legal position, the order passed by the Magistrate could not be faulted with only on the ground that the summoning order was not a reasoned order."

In **Kanti Bhadra Shah & Anr. vs. State of West Bengal, (2000) 1 SCC 722**, the Hon'ble Supreme Court has held as under:

"12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work... If a Magistrate is to write detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down... But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial..."

12. Before considering the rival contentions, it is apposite to note that the Court has inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), to quash criminal proceedings in appropriate cases. However, such power is extraordinary in nature and is to be exercised sparingly, cautiously, and only in cases, where such intervention is necessary, either to prevent abuse of the process of law or to secure the ends of justice.

13. One of the well-recognised grounds for quashing criminal proceedings is that, even if the allegations contained in the complaint or the First Information Report are taken at their face value and accepted in their entirety, they do not disclose the commission of any offence or make out a case against the accused. At the same time, while exercising jurisdiction under Section 528 of the BNSS, this Court is not expected to undertake a meticulous examination of the evidence, assess the probative value of the material collected during the investigation, or conduct a mini-trial. The scope of enquiry in a petition seeking quashing of criminal proceedings is limited to examining whether the allegations, on a plain reading and in the light of the material available on record, disclose the essential ingredients of the offence alleged. If the allegations raise disputed questions of fact requiring appreciation of evidence, such matters are ordinarily to be adjudicated by the trial court upon a full-fledged trial.

14. Having heard the contending parties and after going through the record and the law on the subject, first of all it is to be seen and analysed whether the allegations made against the applicant prima facie disclose the ingredients of the offences under Sections 80, 85 and 86 of the B.N.S., it would be apposite to refer to the said provisions, which read as under:

Section 80, B.N.S.:

"Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harasser by her husband or any relative of her her husband for, or in connection with, any demand for dcowry, such death shall be called "dowry death" and such husband or relative shall be deemed to have caused her death.

Explanation- For the purposes of this sub-section "dowry" shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

Section 85, B.N.S.:

"Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

Section 86, B.N.S.:

"For the purposes of section 85, 'cruelty' means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

15. It is, therefore, evident that one of the essential requirements for attracting Section 85 of the B.N.S. is that the woman must have been subjected to "cruelty" by her husband or a relative of her husband. In the present case, there is no dispute that the applicant is the mother-in-law of the sister of the informant and member of the family and residing with the deceased at the time of her death.

16. The question, therefore, is whether the allegations made against the applicants prima facie satisfy the ingredients of "cruelty" as defined under Section 86 of the B.N.S. The definition of "cruelty" contained in Section 86 of the B.N.S. encompasses wilful conduct of such a nature, as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, whether mental or physical. The other ingredient relates to harassment of the woman with a view to coercing her or any person related to her to meet any unlawful demand for property or valuable security, or on account of the failure by her or any person related to her to meet such demand.

17. Thus, not every instance of disagreement, discord or ill-treatment between spouses would, by itself, constitute "cruelty" within the meaning of Section 85 of the B.N.S. The conduct alleged must fall within the scope of Section 86 of the B.N.S. At the same time, it cannot be said that a series of acts is invariably necessary to constitute cruelty. A single act, if sufficiently grave and of the nature contemplated by the statutory definition, may also constitute cruelty.

18. In the present case, allegations against the applicant are specific in nature, as per the statement of the opposite party No.2 and other witnesses recorded during investigation. As per the evidence collected during the course of investigation, it cannot be said that no offence under Sections 85, 61, 115(2) of the B.N.S. is made out against the mother-in-law of deceased, as referred in the FIR.

19. Section 80(1) of the B.N.S. requires the following essential ingredients to constitute a "dowry death": (i) the death of a woman must have occurred within seven years of her marriage; (ii) such death must have been caused by burns or bodily injury or must have occurred otherwise than under normal circumstances; (iii) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relative of her husband; and (iv) such cruelty or harassment must have been for, or in connection with, any demand for dowry.

20. The phrase "otherwise than under normal circumstances" cannot be restricted solely to visible physical injury or fatal poisoning. The Supreme Court, in **Kans Raj Vs. State of Punjab (2000) (5) SCC 2007**, held that "normal circumstances" implies a natural death caused by age or illness in the ordinary course, if a young woman was married barely three or four years earlier is brought to a hospital with fever, seizures and myocardial infarction while being subjected to persistent cruelty or mental trauma, it cannot automatically be presumed at the initial stage that her death was purely natural. The physical strain, mental torture, or a non visible poison or substance may trigger clinical conditions such as seizures, cardiogenic shock, or myocardial infarction.

21. Once the essential ingredients of dowry death are prima facie established, particularly the death of the woman within seven years of marriage and the fact that, soon before her death, she was subjected to cruelty or harassment by her husband or his relative for, or in connection with, a demand for dowry the statutory presumption under Section 118 of the Bharatiya Sakshya Adhiniyam, 2023 comes into play. Determining, whether the medical conditions (fever, seizures and myocardial infarction) were purely natural or induced or precipitated by systematic cruelty or other extreme factors requires examination of the treating doctors and medical experts, as well as histopathological and toxicological examination, the viscera report and direct testimony from witnesses regarding the proximity of the harassment. These matters falls exclusively within the domain of the trial and cannot be determined in summery proceedings under Section 528 of the BNSS.

22. Considering the specific allegations of dowry demand made against the applicants and the fact that the death occurred within four years of the marriage, the medical opinion indicating "shock as a result of myocardial infarction" cannot, by itself, be treated as a conclusive ground for quashing the charge sheet, the cognizance order or the entire criminal proceedings at this stage. Doing so would amount

to ascertaining the legitimate of the prosecution and conducting a premature trial on the basis of expert medical evidence, which is impermissible in law. The allegations of demand of dowry, dowry death, cruelty etc., constitutes a series of events right from the day the woman subjected to such acts as referred in the Sanhita and, therefore, the entire facts and events further constitutes a mix questions of facts of law, which can only be determined by conducted fair trial wherein the accused person will have sufficient and reasonable opportunity to defend themselves such as by cross examining witnesses and thereafter adducing the defence evidence, if any, in accordance with law. Accordingly, the present application is liable to be dismissed

23. The present application is, accordingly, **dismissed**.

(Chawan Prakash,J.)

September 24, 2026

Md Faisal