



2026:AHC:156543

AFR

RESERVED ON 24.07.2026

DELIVERED ON 29.07.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 11578 of 2026

Smt Saroj Goyal

.....Applicant(s)

Versus

State Of U.P. Thru. Home Secreatary (Ministry Of
Home) And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Avnish Kumar Srivastava
Counsel for Opposite Party(s)	:	G.A.

Court No. - 80

HON'BLE NAND PRABHA SHUKLA, J.

1. Heard Sri Avnish Kumar Srivastava, learned counsel for the applicant, learned AGA for the State and perused the record.

2. The present application under section 528 B.N.S.S. has been filed with a prayer to allow this application and to quash the order dated 05.07.2025 passed by the learned Additional District & Sessions Judge, Court No.11, Aligarh in Criminal Revision No. 188 of 2024 (Saroj Goyal vs. State of U.P. & Others) as well order dated 13.03.2024 passed by the learned Chief Judicial Magistrate, Aligarh in Misc. Case No. 197/12 of 2023, arising out of Crime No. 515 of 2022 under sections 420, 467, 468, 471, 504, 506, 120B IPC, Police Station Banna Devi, District Aligarh whereby the protest petition filed by the applicant was rejected.

3. Briefly stated, the applicant Saroj Goyal lodged an FIR No. 0515 of

by preparing forged consent letter of her father after his demise. After completion of the investigation, the Final Report dated 08.05.2023 was submitted. Aggrieved by the said Final Report, the applicant/first informant preferred a protest petition to the learned Magistrate which was registered as Criminal Misc. Case No. 197/12 of 2023. However, the learned Magistrate dismissed the protest petition of the applicant against which a Criminal Revision No. 188 of 2024 was filed before the learned Sessions Judge, Aligarh and the same was also dismissed. Hence, this application.

4. The main submission of learned counsel for the applicant is that the learned Magistrate while rejecting the protest petition dated 05.07.2023 did not consider the material available on record and without application of judicial mind accepted the final report.

5. The learned State Counsel could not dispute the aforesaid facts.

6. Recently, the Hon'ble Apex Court in **Vishnu Kumar Tiwari Vs. State of Uttar Pradesh, (2019) 8 SCC 27** has held that *"before a Magistrate proceeds to accept a final report under section 173 Cr.P.C. and exonerates the accused, it is incumbent upon the Magistrate to apply his mind to the contents of protest petition and arrive at a conclusion thereafter - while Investigating Officer may rest content by producing the final report, which according to him, is the culmination of his efforts - the duty of the Magistrate is not one limited to readily accept the final report - it is incumbent upon Magistrate to go through the materials, and after hearing the complainant and considering the contents of protest petition, finally decide the future course of action to be, whether to continue with the matter or to close the case. Further, held that dependent upon the material which is made available to a Magistrate by the complainant in the protest petition, it may be capable of being relied on in a particular case having regard to its inherent nature and impact on the conclusions in the final report - that is, if the material is such that it persuades the court to disagree with the conclusions arrived at by the Investigating*

petition in such situation simply serves the purpose of drawing of Magistrate's attention to the material in the case diary and invite careful scrutiny and exercise of the mind by the Magistrate so it cannot be held that simply because there is a protest petition the case is to become a complaint case. *If a protest petition fulfills the requirement of a complaint, Magistrate may treat protest petition as a complaint and deal with the same as required under sections 200/202 Cr.P.C."*

7. In the case in hand, the Magistrate has considered the protest petition dated 05.07.2023 and rejected the same after considering the material available on record. Hence, there is no illegality in the order impugned.

8. From the perusal of record, it transpires that there are certain lacuna in the protest petition dated 05.07.2023 filed by the applicant and does not fulfill the requirements of a complaint case as the list of witnesses to be examined has not been disclosed.

9. However, in case, the applicant moves a fresh complaint inviting the attention of the Magistrate to take cognizance under section 190(1)(a) Cr.P.C./210(1)(a) BNSS satisfying the requirements of a complaint as defined in Section 2(d) Cr.P.C/2(1)(h) BNSS containing the facts that constitute the offence and all necessary particulars and details of the witnesses to be examined preferably within six weeks from the date of the order, the same be proceeded with under section 200 Cr.P.C./223(1) BNSS in accordance with law.

10. With the aforesaid direction, the application u/s 528 B.N.S.S. is disposed of.

(Nand Prabha Shukla,J.)

July 29, 2026
Puspendra