

# Chandramani Pandey And Another vs State Of U.P. And 2 Others on 30 April, 2025

**Author: Sanjay Kumar Pachori**

**Bench: Sanjay Kumar Pachori**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68207

Court No. - 72

Case :- APPLICATION U/S 528 BNSS No. - 7256 of 2025

Applicant :- Chandramani Pandey And Another

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Dharendra Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Pachori,J.

1. Heard, Dharendra Kumar Srivastava, learned counsel for the applicants and Shri P.K. Rai, learned brief holder for the State.

2. The present application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed to quash the impugned notice-cum- order dated 21.9.2024 passed by Sub-Divisional Magistrate, Nizamabad, Azamgarh, in Case No. 4417, under Sections 126, 135, 130 of Bhartiya Nagrik Suraksha Sanhita (Section 107/116, 111 of Cr.P.C.).

3. Learned counsel for the applicant submits that notice dated 21.9.2024, under Sections 126, 135, 130 of Bhartiya Nagrik Suraksha Sanhita has been issued on printed proforma without satisfaction of the facts and circumstances of the case as required under Sections 126, 135, 130 of Bhartiya Nagrik Suraksha Sanhita.

4. While assailing the impugned order, contention of learned counsel for the applicant is that the Magistrate has not applied judicial mind in passing the order as the order has been made on a printed proforma, in which the name of the accused, case crime number and Section has been filled up by hand.

5. Learned counsel for the applicant relied upon the judgment of this Court in the Case of Siya Nand Tyagi Vs. State of U.P. reported in 1994 Cri. LJ 1298 and also the judgment of the Delhi High Court in the cases of Tavindar Kumar and another Vs. State reported in 1990 Cri. LJ 40 and judgment of the Apex Court in Madhu Limaye Vs. S.D.M. Monghyr (2); AIR 1971 SC 2486, wherein some guidelines have been laid down with regard to issuing the notice under Section 107/116 Cr.P.C.

6. Relying upon the decision of this Court in Ankit Vs. State of U.P. and another, JIC 2010 (1) 432, submission of the learned counsel for the applicant is that the order impugned being on a printed proforma is clearly without application of judicial mind and hence, is liable to be quashed on this ground alone.

7. Learned A.G.A. has also admitted that the order impugned has been passed on the printed proforma and therefore, keeping in view the decision in the case of Ankit (supra) as well as the law laid down by the Supreme Court, the Magistrate concerned may be directed to pass a fresh order.

8. I have considered the arguments so advanced by learned counsel for the applicant and learned A.G.A. and also perused the record.

9. The certified copy of the order summoning the accused has been appended as Annexure-1 at page-20 of the paper book. From a perusal of the above order, it is evident that it is a typed proforma where only information of case number, name of parties, section, date and next date is to be filled by Magistrate in handwriting. It appears that the blanks in the printed proforma have been filled up by some court employee and the S.D.M., Nizamabad, Azamgarh, has thereafter just put his initial, which leads to the conclusion that the Magistrate has passed the order in a mechanical manner without application of judicial mind.

10. Despite law laid down by the Apex Court and this Court disapproving such practice of passing orders on printed proforma. It is very painful and unfortunate to see that applicant in the present case has been summoned by the S.D.M. by an order in which blanks have been filled in on a printed proforma without applying judicial mind. This type of order has already been held unsustainable by this Court in the case of Ankit (supra) relying on in a number of decisions of the Apex Court. The relevant portion of the said decision, is extracted below:

"8. ? Although as held by this Court in the case of Megh Nath Guptas & Anr V State of U.P. And Anr, 2008 (62) ACC 826, in which reference has been made to the cases of Deputy Chief Controller Import and Export Vs Roshan Lal Agarwal, 2003 (4) ACC 686 (SC), UP Pollution Control Board Vs Mohan Meakins, 2000 (2) JIC 159 (SC): AIR 2000 SC 1456 and Kanti Bhadra Vs State of West Bengal, 2000 (1) JIC 751 (SC): 2000 (40) ACC 441 (SC), the Magistrate is not required to pass detailed reasoned order at the time of taking cognizance on the charge sheet, but it does not mean that order of taking cognizance can be passed by filling up the blanks on printed proforma. At the time of passing any judicial order including the order taking cognizance on the charge sheet, the Court is required to apply judicial mind and even the order of taking cognizance cannot be passed in mechanical manner. Therefore, the impugned order is liable to be quashed and the matter has to be sent back to the Court below for passing fresh order on the charge sheet after applying judicial mind."

11. In view of the above, the conduct of the Sub-Divisional Magistrate concerned in passing orders on printed proforma by filling up the blanks without application of judicial mind is objectionable and deserves to be deprecated. The summoning of an accused in a criminal case is a serious matter and the order must reflect that Sub-Divisional Magistrate concerned had applied his mind to the facts as well as law applicable thereto.

12. In view of the facts and circumstances of the case, and the law laid down by the Supreme Court, the present application is allowed. The impugned notice cum order dated 21.9.2024 passed by Sub-Divisional Magistrate, Nizamabad, Azamgarh is, hereby, quashed. The Magistrate is directed to pass fresh order after applying the judicial mind.

Order Date :- 30.4.2025 A.P. Pandey