



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 528 BNSS No. - 673 of 2026

S. Vignesh Shishir

.....Applicant(s)

Versus

Sri Rahul Gandhi And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	In Person
Counsel for Opposite Party(s)	:	A.S.G.I., G.A.

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Sri S. Vignesh Shishir, the petitioner, Dr. V.K. Singh, the learned Government Advocate along with Shri Yogesh Kumar Singh, the learned AGA-I, Shri Mayank Sinha, the learned AGA, representing the opposite party Nos.2, 3 and 4 and Shri S.B. Pandey, the learned D.S.G.I. along with Raj Kumar Singh and Shri Anand Dwivedi, learned Central Government Counsel representing the respondent No.5-Union of India are present in the Court.

2. This matter was listed on 16.04.2026, on which date the Court had heard submissions of the petitioner in person, the learned Deputy Solicitor general of India and the learned Government Advocate representing the State Government. When the Court proceeded to dictate the order, it transpired that the copy of the application under Section 173(4) BNSS annexed to the petition was not a complete copy and some pages thereof were missing. On the request of the petitioner in person, he was granted time to file a supplementary affidavit annexing therewith a complete copy of the application under Section 173(4) BNSS and the matter was posted for 17.04.2026.

3. On 17.04.2026 the following order was passed in this case: -

"1. After hearing the submissions of Shri S. Vignesh Shishir, the petitioner in person, Dr. V.K. Singh, the learned Government Advocate along with Shri Yogesh Kumar Singh, the learned AGA-I, and Shri Mayank Sinha, the learned AGA, representing the opposite party Nos.2, 3 and 4 and Shri S.B. Pandey, the learned D.S.G.I. along with Shri Raj Kumar Singh and Shri Anand Dwivedi, learned Central Government Counsel representing the respondent No.5-Union of India, the judgment was pronounced in the Court. During

hearing, the court had put a specific question to the petitioner as well as the learned counsel appearing in the matter as to whether a notice was required to be issued to the opposite party no.1. All of them submitted that there is no requirement of issuance of a notice to the proposed accused while deciding an application under Section 173(4) read with 175(3) BNSS and, therefore, no notice needs to be issued to the proposed accused-opposite party no.1 while deciding an application under Section 528 BNSS challenging the validity of an order rejecting an application under Section 173(4) read with Section 175(3) BNSS.

2. Thereafter, the Court had dictated a judgment in the open court. However, before the judgment could be typed and signed, the Court came across a judgment rendered by a Full Bench of this Court in the case of Jagannath Verma and others Vs. State of U.P. and others: 2014 SCC OnLine Alld 11859, wherein the Full Bench has held that an order of a Magistrate rejecting an application under Section 156(3) Cr.P.C. for the registration of a case by the police and for investigation, is not an interlocutory order. Such an order is amenable to the remedy of a criminal revision under Section 397. In proceedings in revision under Section 397, the prospective accused or, as the case may be, the person who is suspected of having committed the crime, is entitled to an opportunity of being heard before a decision is taken in the criminal revision.

3. In view of the aforesaid legal position, it appears that the application under Section 528 BNSS should not be decided without issuing notice to the opposite party no.1. The parties need to be given an opportunity to address the Court on this aspect of the matter.

4. Therefore, list this case on 20.04.2026 for further hearing."

4. Thereafter, the petitioner has posted the following message on social media: -

"MASSIVE BACK ROOM EXERCISE BY CONGRESS PARTY AND LATE NIGHT CALLS TO ALL FROM DEEP STATE ELEMENTS. TWIST AMOUNTING TO FOUL PLAY.

Just Now Came to know that late night calls and exercises have been done by Congress Party and Their Foreign Deep State Counterparts to various High Ranking Persons.

There is a Massive Twist of Things happening in Backroom.

Please beware R&AW and Intelligence Bureau are watching everyone 24x7.

This is Real War and Not some Mock Drill Going on.

After the Orders of Hon'ble Allahabad High Court at Lucknow Bench Order Were Passed at 4 30 pm onwards on 17th April 2026.

There is no smoke without fire.

My Name is Vignesh Shishir, I am 3rd Generation Swayamsevak of

RSS and 3rd Generation Karyakarta of Bhartiya Janta Party.

My Family have seen all your tactics from Pre Independence till 18th April 2026; 11:00 HRS.

If there is some twist I will approach Hon'ble Chief Justice of India Directly and submit my letter about any foul play and Deep State Conspiracy.

Jai Hind Vande Matram.

Om Namaha Shivaya."

5. In yet another message posted on social media, the petitioner wrote: -

"I am fighting this case with all Courage, Dedication, Passion and 100% True Heart on behalf of all Indian Citizens and National Security at Large.

What Massive Overnight Development has happend.

If my Intelligence is Correct as it is always 100% spot on.

I Urge all General Public to Raise their voice in what has happend between 17th April 2026 5 pm onwards to 18th April 11 am.

Kindly Send the Complaint to Hon'ble Chief Justice of India, Supreme Court of India to take suo moto cognizance of this MASSIVE KHELA HOBE WHICH HAS HAPPEND between 17th April 2026 5 pm onwards to 18th April 11 am.

If I am alive I will continue to Fight till my Last Breath on Behalf of All Indian Citizens, Nationalists and Patriots.

Jai Hind. Vande Mataram.

Ganesha Iccha.

Om Namaha Shivaya.

With Best Regards

Vignesh Shishir

Bharatiya Janata Party."

6. The aforesaid messages posted by the petitioner on social media indicate that he is casting aspersions against this Court because the Court had not signed and uploaded the order that was dictated in open Court on 17.04.2026, for the reason recorded in the order dated 17.04.2026 signed and uploaded on the website of this Court. The messages indicate that the petitioner has lost faith in this Court.

7. In one more message posted on social media, the petitioner wrote: -

"In this extra ordinary circumstances which has occurred in last 24 hours. I would like to Request All The People of India to kindly urge the Hon'ble Chief Justice of India to kindly Direct the Hon'ble Chief Justice of the Allahabad High Court at Lucknow Bench to kindly type and upload the Judgement which is dictated and pronounced in Open Court as matter pertains to National Security of India and Concerning Larger Public Interest of Every Indian Citizen about a Foreign National sitting in Lok Sabha Since Last 22 years."

8. With this message the petitioner has posted a screenshot of a part of the order passed by this court on 17.04.2026.
9. Strangely, in yet another message posted on the social media the petitioner has sought public opinion whether he should request this Court to issue notice to the opposite party and order his personal appearance before the Court and he has stated he fully believes in this Court and Hon'ble Supreme Court of India.
10. The aforesaid first three messages posted by the petitioner on social media indicate that he has cast aspersions on this Court, but thereafter he has sought a public opinion as to whether he should proceed with the matter before this Court.
11. In these circumstances, when the petitioner has publicly cast aspersions on the Court on social media, this court does not deem it appropriate to hear this matter any further.
12. At this stage, the petitioner who is appearing in person requested this court to desist from recusing from the case. On 17.04.2026 he stated that he had appreciated the judgment pronounced by this court and this was reported in the Times of India and he has stated that in none of the messages quoted above, he has cast any aspersion against this Court.
13. The Courts do not get influenced by the appreciation of litigants. However, the messages quoted above posted after passing of the order dated 17.04.2026 amount to casting aspersions on this Court and keeping those in consideration, I find it appropriate to recuse from hearing this case.
14. Accordingly, I recuse myself from hearing this matter.
15. Before parting with this case, I am pained to put it on record that the petitioner had misled this Court about the legal position as to whether a notice is required to be issued to the proposed accused in a petition under Section 528 BNSS challenging an order rejecting an

application under Section 173 (4) BNSS. The Court has recorded in the order dated 17.04.2026 that this question was put to all the learned counsel appearing for the parties, including the learned Deputy Solicitor General of India assisted by a team of lawyers as well as the learned Government Advocate who is also assisted by a learned A.G.A.-I and an A.G.A. and all of them had categorically stated that there is no need to issue notice to the proposed accused. It is recorded in the order dated 17.04.2026 that the aforesaid position of law placed by the petitioner in person as well as all the learned counsel appearing for the parties appeared to be incorrect as in the case of **Jagannath Verma Vs. State of U.P.**: 2014 SCC OnLine All. 11859, a Full Bench of this Court has categorically held that in proceedings in Revision under Section 397 filed against an order rejecting an application under Section 156(3) Cr.P.C., the prospective accused, or as the case may be, the person who is suspected of having committed a crime, is entitled to an opportunity of being heard before a decision is taken in the criminal revision.

16. Although, the aforesaid principle has been laid down in the context of a revision under Section 397, the petition under Section 528 BNSS also challenges the validity of an order rejecting an application under Section 173(4) BNSS, which is substantially akin to a revision and, therefore, the aforesaid principle laid down by the Full Bench in **Jagannath Verma** (supra) appears to be applicable to a petition under Section 528 BNSS filed against an order rejecting an application under Section 173 (4) BNSS.

17. The learned Deputy Solicitor General submitted that Union of India is a formal party in this matter. Therefore, he was not required to advance submissions in this Case and he cannot be faulted for not providing correct assistance to the Court on the question of law regarding requirement of notice to the proposed accused. I find myself unable to accept this submission. The Court can request for assistance on a question of law from any of the learned Counsel and being officers of the Court, the learned Counsel should provide assistance to the Court. The learned Deputy Solicitor General is a designated Senior Advocate and the Court can certainly request for assistance on a question of law. Moreover, when the Court had asked the question during hearing, the learned Deputy Solicitor General had not declined to answer the question on the ground that he was not representing a contesting party. He had given a categorical answer that there was no requirement to issue notice to

the proposed accused.

18. In the case of **Lal Bahadur Gautam Vs. State of U.P. and others**: (2019) 6 SCC 441, the Hon'ble Supreme Court has made the following observations: -

"9. Before parting with the order, we are constrained to observe regarding the manner of assistance rendered to us on behalf of the respondent management of the private college. Notwithstanding the easy access to information technology for research today, as compared to the plethora of legal Digests which had to be studied earlier, reliance was placed upon a judgment based on an expressly repealed Act by the present Act, akin to relying on an overruled judgment. This has only resulted in a waste of judicial time of the Court, coupled with an onerous duty on the Judges to do the necessary research. We would not be completely wrong in opining that though it may be negligence also, but the consequences could have been fatal by misleading the Court leading to an erroneous judgment.

10. Simply, failure in that duty is a wrong against the justice delivery system in the country. Considering that over the years, responsibility and care on this score has shown a decline, and so despite the fact that justice is so important for the society, it is time that we took note of the problem, and considered such steps to remedy the problem. We reiterate the duty of the parties and their counsel, at all levels, to double check and verify before making any presentation to the court. The message must be sent out that everyone has to be responsible and careful in what they present to the court. Time has come for these issues to be considered so that the citizen's faith in the justice system is not lost. It is also for the courts at all levels to consider whether a particular presentation by a party or conduct by a party has occasioned unnecessary waste of court time, and if that be so, pass appropriate orders in that regard. After all court time is to be utilised for justice delivery and in the adversarial system, is not a licence for waste.

11. As a responsible officer of the court and an important adjunct of the administration of justice, the lawyer undoubtedly owes a duty to the court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client as observed in State of Punjab v. Brijeshwar Singh Chahal [State of Punjab v. Brijeshwar Singh Chahal, (2016) 6 SCC 1 : (2016) 3 SCC (Civ) 1 : (2016) 2 SCC (Cri) 475 : (2016) 2 SCC (L&S) 1] : (SCC p. 26, para 34)

"34. ... relationship between the lawyer and his client is one of trust and confidence. As a responsible officer of the court and an important adjunct of the administration of justice, the lawyer also owes a duty to the court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client."

12. The observations with regard to the duty of a counsel and the high degree of fairness and probity required was noticed in D.P. Chadha v. Triyugi Narain Mishra [D.P. Chadha v. Triyugi Narain Mishra, (2001) 2 SCC 221] : (SCC pp. 236-38, paras 22, 24 & 26)

"22. A mere error of judgment or expression of a reasonable opinion or taking a stand on a doubtful or debatable issue of law is not a misconduct; the term takes its colour from the underlying intention. But at the same time misconduct is not necessarily something involving moral turpitude. It is a relative term to be construed by reference to the subject-matter and the context wherein the term is called upon to be employed. A lawyer in discharging his professional assignment has a duty to his client, a duty to his opponent, a duty to the court, a duty to the society at large and a duty to himself. It needs a high degree of probity and poise to strike a balance and arrive at the place of righteous stand, more so, when there are conflicting claims. While discharging duty to the court, a lawyer should never knowingly be a party to any deception, design or fraud. While placing the law before the court a lawyer is at liberty to put forth a proposition and canvass the same to the best of his wits and ability so as to persuade an exposition which would serve the interest of his client so long as the issue is capable of that resolution by adopting a process of reasoning. However, a point of law well settled or admitting of no controversy must not be dragged into doubt solely with a view to confuse or mislead the Judge and thereby gaining an undue advantage to the client to which he may not be entitled. Such conduct of an advocate becomes worse when a view of the law canvassed by him is not only unsupportable in law but if accepted would damage the interest of the client and confer an illegitimate advantage on the opponent. In such a situation the wrong of the intention and impropriety of the conduct is more than apparent. Professional misconduct is grave when it consists of betraying the confidence of a client and is gravest when it is a deliberate attempt at misleading the court or an attempt at practising deception or fraud on the court. The client places his faith and fortune in the hands of the counsel for the purpose of that case; the court places its confidence in the counsel in case after case and day after day. A client dissatisfied with his counsel may change him but the same is not with the court. And so the bondage of trust between the court and the counsel admits of no breaking.

24. It has been a saying as old as the profession itself that the court and counsel are two wheels of the chariot of justice. In the adversarial system, it will be more appropriate to say that while the Judge holds the reins, the two opponent counsel are the wheels of the chariot. While the direction of the movement is controlled by the Judge holding the reins, the movement itself is facilitated by the wheels without which the chariot of justice may not move and may even collapse. Mutual confidence in the discharge of duties and cordial relations between Bench and Bar smoothen the movement of the chariot. As responsible officers of the court, as they are called — and rightly, the counsel have an overall obligation of assisting the courts in a just and proper manner in the just and proper administration of justice. Zeal and enthusiasm are the traits of success in profession but overzealousness and misguided enthusiasm have no place in the personality of a professional.

26. A lawyer must not hesitate in telling the court the correct position

of law when it is undisputed and admits of no exception. A view of the law settled by the ruling of a superior court or a binding precedent even if it does not serve the cause of his client, must be brought to the notice of court unhesitatingly. This obligation of a counsel flows from the confidence reposed by the court in the counsel appearing for any of the two sides. A counsel, being an officer of court, shall apprise the Judge with the correct position of law whether for or against either party."

13. That a higher responsibility goes upon a lawyer representing an institution was noticed in State of Rajasthan v. Surendra Mohnot [State of Rajasthan v. Surendra Mohnot, (2014) 14 SCC 77 : (2015) 3 SCC (L&S) 426] : (SCC p. 94, para 33)

"33. As far as the counsel for the State is concerned, it can be decidedly stated that he has a high responsibility. A counsel who represents the State is required to state the facts in a correct and honest manner. He has to discharge his duty with immense responsibility and each of his action has to be sensible. He is expected to have higher standard of conduct. He has a special duty towards the court in rendering assistance. It is because he has access to the public records and is also obliged to protect the public interest. That apart, he has a moral responsibility to the court. When these values corrode, one can say "things fall apart". He should always remind himself that an advocate, while not being insensible to ambition and achievement, should feel the sense of ethicality and nobility of the legal profession in his bones. We hope, that there would be response towards duty; the hallowed and honoured duty."

19. I am pained to note that the learned counsel appearing in this case have failed to perform their duty of providing assistance to the Court in a fair manner as per the level expected by the Hon'ble Supreme Court in the case of **Lal Bahadur Gautam** (supra).

20. Although, it is the duty of the court to render justice by passing appropriate orders, the court is entitled to received assistance from the counsel in discharge of this duty. Lack of proper assistance creates hurdle in expeditious dispensation of justice. In the present case, although correct legal position was not placed before the court and the court had pronounced an order but the court itself found out the relevant law laid down by a Full Bench of this court in the case of **Jagannath Verma** (supra) and deemed it appropriate to give an opportunity of hearing to the parties on this point, thereby preventing an erroneous order to be passed. Instead of admitting the mistake in placing the correct position before the Court the petitioner has blamed the court for not uploading the order that was dictated in open court and has created an unpleasant situation leading this court to recuse from hearing of the case.

21. Let the matter be placed before Hon'ble the Chief Justice for nomination of another Bench.

22. At this stage, the learned Government Advocate submitted that the ratio of law laid down in **Jagannath Verma** (supra) will not apply to the present case, as the trial Court has rejected the application under Section 173 (4) BNSS merely on the ground that the complaint of the petitioner is under consideration of the authorities and, therefore, the application is pre-mature. In this regard, the contents of paras 3 and 4 of the order dated 17.04.2026, should be taken note of, which state that: -

"3. In view of the aforesaid legal position, it appears that the application under Section 528 BNSS should not be decided without issuing notice to the opposite party no. 1. The parties need to be given an opportunity to address on this aspect of the matter.

4. Therefore, list this case on 20.04.2026 for further hearing."

23. Therefore, it is amply clear that the parties will have an opportunity of hearing on this point before the Bench to be nominated by Hon'ble the Chief Justice of this Court.

April 20, 2026
Ram.

(Subhash Vidyarthi,J.)