



2026:AHC-LKO:11413

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 528 BNSS No. - 508 of 2026

Prashant Chandra

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And 7
Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Aviral Raj Singh, Ashutosh Verma,
Ritwick Rai
Counsel for Opposite Party(s) : G.A.

Court No. - 16

HON'BLE BRIJ RAJ SINGH, J.

1. Heard learned counsel for the applicant, learned AGA for the State and Sri Mrityunjay Pratap Singh, Advocate, who has filed his Power today on behalf of opposite party no.7, which is taken on record.

2. This application has been filed with the following main reliefs:

"i. Quash the impugned order dated 17.10.2025 (Annexure No. I), passed by the Learned Additional Chief Judicial Magistrate-IV, in Complaint Case No.-7411 / 2024, titled, 'Prashant Chandra versus Transunion CIBIL & others', PS-Hazratganj, District-Lucknow;

ii. Direct order that the Hon'ble Court of Additional Chief Judicial Magistrate-IV, Lucknow proceeds with the case, i.e., Complaint Case No.-7411 / 2024, titled, 'Prashant Chandra versus Transunion CIBIL & others', PS-Hazratganj, District-Lucknow, in an expeditious manner and pass orders qua summoning of the Accused persons in a time-bound manner."

3. It has been submitted by learned counsel for the applicant that the impugned order dated 17.10.2025 is bad in law as vide the said order, the Magistrate, in accordance with the first proviso of Section 223 of the BNSS, has directed issuance of notices to the accused, giving them an opportunity to put forth their case in respect of the assertions made in the Complaint. Although, appearance had already been put in by the some of the accused

persons and service upon all of the accused persons was effected more than a year ago (brought on record before the Trial Court vide an application dated 20.11.2024), no objection was filed and in effect, the accused persons had abandoned their right to make objections. It has been further submitted that the fact remains that the Magistrate had undertaken the exercise of examining the Complainant/applicant and the witnesses on oath, who deposed in substantiation of the Complaint made before the Magistrate, in which offences of serious nature inasmuch the opposite party no.4, namely GIC Housing Finance Limited, had indulged in forgery and fabrication, and had wrongly sent a report to opposite party no.2, i.e., Trans Union CIBIL, depicting the applicant/ Complainant, to be a wilful defaulter whereas, no amount was due to be paid by the applicant to opposite party no. 4. Furthermore, no notice was ever issued by the opposite party no.4 to the Complainant ever calling upon him to pay an amount purportedly defaulted, alleged to have been taken in the year 1995.

4. The complaint has been filed by the applicant against the answering opposite parties and the said complaint was heard on 8.11.2024 by the Additional Chief Judicial Magistrate-IV, Lucknow and the court has mentioned that the case is registered and it is incumbent upon the court to hear the opposite parties prior to passing any order, therefore, notice was also issued to the answering opposite parties on the same date. It has been submitted that the order sheet dated 20.11.2024 indicates that notice was served on opposite party nos.3, 5 and 6 and power was also filed on behalf of opposite party nos.3 to 6 of the complaint. Again, matter was taken up on 6.12.2024. The tracking report has been taken on record and the order has been passed that notice has been served on opposite party nos.2 to 7. The statement under Section 223 of BNSS of the applicant was also recorded on 2.1.2025 and the statement of Ajay Pratap Singh and Ashok Kumar Singh was recorded under Section 225 of BNSS on 23.1.2025 and 15.2.2025 respectively. It has been further submitted that after recording the statement under Section 223 of BNSS, it was incumbent upon the court below to hear the opposite parties, who have already put in appearance, but by the impugned order, the court has said that the applicant has to take steps again so that notices may be served on opposite parties.

5. Learned counsel for the applicant has further submitted that once the

notice has been served which is evident from the record in pursuance of order dated 8.11.2024, there is no reason as to why second time notice should be issued and applicant should be forced to take fresh steps.

6. On the other hand, learned counsel for opposite party no.7 has submitted that once the statement under Sections 223 and 225 of BNSS has been recorded by the court below then it is incumbent upon the court to issue fresh notice so that opposite parties may put forth their case. He has also relied upon Paras 9, 10 and 12 of a judgment of this Court in ***Prateek Agarwal vs. State of U.P. and others, 2024 SCC OnLine All 8212***. He has also submitted that the procedure has not been followed and the first issuance of notice dated 8.11.2024 does not mean that the second time notice would not be issued by the court below after recording the statements of complainant as well as witnesses.

7. After going through the record, it is amply clear that in pursuance of the order dated 8.11.2024, opposite parties have put in appearance and their counsel was also appearing in the case. The record reveals that the case has been listed many times but by one reason or the other, case could not be proceeded.

8. It is important to be noted that the opposite parties have got right to be heard at the pre-cognizance stage. They have put in appearance before the court below which is admitted on record. In the opinion of the Court, fresh notice is not required. Learned counsel for opposite party no.7 has already put in appearance, thus, they have already got knowledge regarding proceedings of the case pending before the court below.

9. In the case of *Prateek Agarwal* (supra) cited by learned counsel for opposite party no.7, it is to be noted that prior to issuance of notice to the accused/applicant, it was obligatory on the part of the court below to record the statement of the complainant as well as witnesses and thereafter, copy of the complaint as well as statement of complainant and other witnesses taken on oath were to be provided to the accused annexing the notice, but in that case, statement was not recorded. It is thus clear that in the case of *Prateek Agarwal* (supra), the statement of the complainant was not recorded and prior to that, notice was issued. However, in the present case, notices have been issued against the opposite parties and they have put in appearance and

statement of the complainant under Section 223 of BNSS and statement of witnesses under Section 225 of BNSS have been recorded, therefore, the facts of the case of *Prateek Agarwal* (supra) is not applicable in the present case.

10. The opposite parties have already put in appearance and today also, learned counsel for opposite party no.7 has put in appearance, therefore, this Court is of the opinion that since the appearance has already been put in and Vakalatnama is already there on behalf of all the opposite parties, therefore, fresh notice is not required to be issued.

11. In view of above, this application is ***allowed*** and the impugned order dated 17.10.2025 is set aside. The court concerned is directed to proceed with the case in accordance with law, without being influenced by any observation made by this Court.

(Brij Raj Singh,J.)

February 13, 2026

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