



**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. 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.

April 17, 2026
Pradeep/-

(Subhash Vidyarthi,J.)