



2026:AHC:205481

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5157 of 2026

Bhagirathi

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Mahendra Pratap Yadav
Counsel for Respondent(s)	:	G.A.

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. The present appeal under Section 14-A(1) of the SC/ST Act has been filed by the appellant with a prayer to set aside/quash the charge-sheet dated 25.09.2025 and the summoning order dated 24.03.2026 passed in S.T. No.137 of 2026 (State Vs. Bhagirathi and another), arising out of Case Crime No.284 of 2025, under Sections 316(2), 318(4), 115(2), 352, 351(3) BNS, Police Station Mahuli, District Sant Kabir Nagar.
3. In the First Information Report, the accused-appellant has been named. The allegation against the accused-appellant is that he committed forgery and cheating against the informant/victim. It has been stated in the FIR that some amount was paid by the informant/victim in the account number mentioned in the FIR, whereas some amount was also paid in cash.
4. Learned counsel for the appellant submits that the prosecution story, even if taken at its face value, does not disclose the necessary ingredients of the offences alleged against the appellant. It is further submitted that the allegations arise out of a monetary transaction and there is no specific material to establish that the appellant had any dishonest or fraudulent intention from the very inception of the transaction. It is also submitted that no amount whatsoever has been received in the account of the appellant, which further demonstrates the absence of any material connecting the appellant with the alleged monetary transaction. The prosecution has mechanically invoked the provisions relating to cheating and criminal breach of trust/forgery without establishing their respective essential ingredients. Learned counsel submits that in the light of judgment of the

Supreme Court in ***Delhi Race Club (1940) Ltd. & Ors. Vs. State of Uttar Pradesh & Anr., (2024) 10 SCC 690***, Sections 318(4) and 316(2) BNS cannot proceed altogether. It is, therefore, submitted that the charge-sheet and summoning order are liable to be set aside.

5. Learned A.G.A., on the other hand, opposed the submissions advanced by learned counsel for the appellant and submits that the appellant is specifically named in the FIR and specific allegations have been made against him regarding the commission of forgery and cheating in connivance with co-accused Shreya Verma. It is submitted that the FIR and the statement of the informant/victim disclose that amounts were paid by the victim through bank transactions as well as in cash and that the appellant participated in the alleged transaction. The Investigating Officer, after investigation and consideration of the statements of the witnesses and other material collected during investigation, found prima facie evidence against the appellant and accordingly submitted the charge-sheet. It is further submitted that at the stage of cognizance/summoning, meticulous appreciation of evidence is not permissible and the defence of the appellant as to the absence of the necessary ingredients of the offences is a matter to be considered at the appropriate stage of the trial. The learned A.G.A. therefore submits that no interference is warranted at this stage.

6. In the case of ***Delhi Race Club (1940) Ltd. and others Vs. State of Uttar Pradesh and Another, (2024) 10 SCC 690***, the Apex Court held as under:

“Sections 406 and 420 IPC are distinct offences with different essential ingredients and ordinarily cannot be invoked together on the same set of facts. The Court explained that Section 420 IPC requires dishonest or fraudulent intention from the very inception of the transaction, whereas Section 406 IPC requires entrustment of property followed by dishonest misappropriation or conversion of the entrusted property. A mere breach of contract or failure to fulfil a promise does not constitute cheating, and in the absence of entrustment, the offence of criminal breach of trust is not made out. The Court deprecated the mechanical practice of invoking both provisions together without examining whether their essential ingredients are satisfied.”

7. In the present matter, on the basis of the material available on record, including the averments made in the First Information Report and the

statement of the informant/victim, the learned trial court has taken cognizance under Sections 316(2), 318(4), 115(2), 352 and 351(3) BNS against accused-appellant Bhagirathi and under Sections 316(2), 318(4), 352 and 351(3) BNS and Sections 3(1)(dha) and 3(2)(Va) of the SC/ST Act against co-accused Shreya Verma. From a perusal of the First Information Report and the statement of the informant/victim, prima facie, it appears that the accused-appellant participated in the alleged acts of forgery in connivance with co-accused Shreya Verma.

8. At the stage of taking cognizance and summoning, the Court is required to examine whether the material collected during investigation discloses a prima facie case against the accused. At this stage, the Court is not required to undertake a meticulous appreciation of evidence or conduct a mini trial. The contention of the appellant regarding the absence of dishonest intention from the inception, the nature of the monetary transaction and the applicability of the respective penal provisions involves appreciation of the material and can appropriately be considered by the trial court at the stage of framing of charge.

9. In the present case, the FIR and the statement of the informant/victim contain specific allegations against the appellant and prima facie disclose his involvement in the alleged transaction. The defence raised by the appellant requires appreciation of the evidence and cannot be conclusively adjudicated at this stage. Accordingly, no ground for interference with the charge-sheet or summoning order is made out.

10. So far as the submission of learned counsel for the appellant regarding the reliance upon the judgment of Supreme Court in ***Delhi Race Club (supra)*** is concerned, the learned trial court may examine and consider, at the stage of framing of charge, if charge has not been framed in this case yet, whether offences under Sections 318(4) and 316(2) BNS (both) be made out and charges may be framed simultaneously in light of ***Delhi Race Club (supra)***. The trial court shall proceed uninfluenced by any observation made herein on the merits of the case.

11. Accordingly, the present appeal is ***dismissed***.

12. However, in case the appellant has not been enlarged on bail, he is directed to appear before the court concerned and move his bail application within two weeks from today. It is made clear that no application seeking extension of the aforesaid period shall be entertained by this Court.

13. In case the appellant moves a bail application before the court concerned, the same shall be considered and decided by the trial court

expeditiously and, preferably, on the same day, in accordance with law and in light of the principles laid down by the Supreme Court as well as this Court regarding surrender and bail.

14. In case the appellant fails to appear before the court concerned within the stipulated period, the trial court shall be at liberty to adopt appropriate coercive proceedings, in accordance with law, for securing his presence.

15. Registrar (Compliance) is directed to communicate a copy of this order to the court concerned through the District & Sessions Judge, Sant Kabir Nagar, by FAX/e-mail within one week.

(Santosh Rai,J.)

September 30, 2026

Vikas Verma