2026:AHC:227716

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 6897 of 2025

Ankit Jain

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Amit Daga, Prateek Pandey
Counsel for Opposite Party(s)	:	G.A., Vishesh Rajvanshi

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Heard Mr. Amit Daga, learned Senior Counsel assisted by Mr. Prateek Pandey, learned counsel for the applicant, learned AGA for the State, Mr. Vishesh Rajvanshi, learned counsel for the opposite party no.2 and perused the record.

2. This application under Section 482 Cr.P.C. has been filed filed by the appellant for quashing the charge sheet dated 02.09.2024 and summoning order dated 10.02.2025 passed by Chief Judicial Magistrate, Muzaffarnagar including the entire proceeding of Criminal Case No.1721/9 of 2025 arising out of Case Crime No.256 of 2024, under Sections 406 and 420 IPC, Police Station Khatauli, District Muzaffarnagar.

3. It has been submitted by learned counsel for the applicant that applicant is innocent and no prima-facie case is made out against him. It was further submitted that by impugned order, the applicant summoned for offence under Sections 420 & 406 IPC and as per law laid down in case of ***Delhi Race Club (1940) Ltd. and Others Vs. State of Uttar Pradesh and Another 2024 SCC Online SC 2248***, the offence of cheating viz-a-viz criminal breach of trust are independent and distinct and both cannot exist simultaneously and on this account alone the impugned summoning order is liable to be set aside.

4. Learned AGA as well as learned counsel for the opposite party no.2 do not dispute the aforesaid submissions made by learned counsel for the applicant.

5. Perusal of record shows that by impugned order, the applicant has been summoned under Sections 420 & 406 I.P.C. as stated above, in case of ***Delhi***

Race Club (supra), it has been held by the Hon'ble Apex Court that the offence of cheating viz-a-viz criminal breach of trust are independent and distinct and thus, the same cannot exist simultaneously in same set of facts and that they are antithetical to each other. Thus, it is clear that impugned order is not in accordance with law.

6. In view of the aforesaid, impugned order dated 10.02.2025 passed by Chief Judicial Magistrate, Muzaffarnagar in Criminal Case No.1721/9 of 2025 arising out of Case Crime No.256 of 202, Police Station Khatauli, District Muzaffarnagar, is hereby set aside and the matter is remitted back to the court concerned to pass an order on the point of summoning afresh, expeditiously in accordance with law.

7. The instant application is **disposed of** in above terms.

November 2, 2026
Ajeet

(Madan Pal Singh,J.)

Digitally signed by :-
AJEET KUMAR PATEL
High Court of Judicature at Allahabad