HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 28776 of 2024

Tanveer Alam @ Banti

.....Applicant(s)

Versus

State Of U.P. And Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Satish Solanki
Counsel for Opposite Party(s)	:	G.A., Sandeep Kumar Dubey

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. Case called out in the revised call. None has appeared on behalf of the applicant to press the present application. As per the report of the Chief Judicial Magistrate, Hathras, notice has been served upon the served upon the son of the applicant personally.

2. Heard learned counsel for the opposite party no. 2, learned AGA for the State and perused the record.

3.The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Criminal Case No. 1387 of 2023 (State Vs. Tanveer Alam) arising out of Case Crime No. 397 of 2023, under Sections 420, 406, 504 of I.P.C., Police Station- Tronica City, District Ghaziabad, as well as cognizance/summoning order dated 30.10.2023 pending in the court of Additional Civil Judge (Junior Division) IVth Ghaziabad.

4. 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.

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 cognizance order dated 30.10.2023 passed by the Additional Civil Judge (Junior Division) IVth Ghaziabad 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 within a period of two months from today.

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

8.The Registrar (Compliance) is directed to communicate the order to the trial court concerned with three days for necessary compliance.

October 24, 2026
Akbar

(Madan Pal Singh,J.)

Digitally signed by :-
MOHAMMAD AKBAR
High Court of Judicature at Allahabad