2026:AHC:208941

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 49951 of 2025

Pawan Kumar Chauhan

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Shivam Kumar Modanwal
Counsel for Opposite Party(s)	:	Pramod Kumar Sahani, G.A.

Court No. - 79

HON'BLE MADAN PAL SINGH, J.

1. List has been revised. Learned counsel for the applicant is present. Despite service of notice, none has appeared on behalf of opposite party no.2.

2. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

3. This application under Section 482 Cr.P.C. has been filed filed by the appellant for quashing the charge sheet dated 09.04.2025 and cognizance as well as summoning order dated 10.07.2025 in Case No.10805 of 2025 arising out of Case Crime No.386 of 2024, under Sections 406, 419, 420, 504, 506 IPC, Police Station Kotwali Mau, District Mau pending in the court of Chief Judicial Magistrate, Mau.

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 order dated 10.07.2025 passed by the Chief Judicial Magistrate, Mau in Case No.10805 of 2025 arising out of Case Crime No.386 of 2024, under Sections 406, 419, 420, 504, 506 IPC, Police Station Kotwali Mau, District Mau, 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.

October 6, 2026
Ajeet

(Madan Pal Singh,J.)

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