



2026:AHC:60464-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 4201 of 2026

Kripa Shankar Srivastava And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Babita Shukla, Ram Prakash Shukla
Counsel for Respondent(s)	:	G.A.

Court No. - 49

**HON'BLE RAJEEV MISRA, J.
HON'BLE ACHAL SACHDEV, J.**

1. Heard Mr. Ram Prakash Shukla, the learned counsel for petitioners and the learned A.G.A. representing State/respondents 1 and 2.

2. Perused the record.

3. Petitioners-Kripa Shankar Srivastava And 3 Others have approached this Court by means of present Criminal Misc. Writ Petition challenging the first informant report dated 06.12.2025 lodged by first informant/respondent-3, Ramrathi Varma and registered as Case Crime No. 065 of 2025 under Sections 420 and 406 I.P.C., Police Station-Cantt., District-Varanasi.

4. Learned counsel for petitioners submits that in view of the facts and circumstances of the case as have now emerged on record, the criminal prosecution of petitioners pursuant to the impugned F.I.R. is unsustainable in law and fact. As such, the impugned F.I.R. is liable to be quashed by this Court.

5. In furtherance of aforesaid submission, it is contended by the learned counsel for petitioners that the impugned F.I.R. has been lodged under Sections 420 and 406 I.P.C. However, an accused cannot be prosecuted simultaneously for an offence under Sections 420 and 406 I.P.C. He therefore submits that in view of above, the impugned F.I.R. cannot be sustained and is therefore, liable to be quashed by this Court. To buttress his submission, the learned counsel for petitioner has relied upon the judgements of Supreme Court in **(i) Sharif Ahmed and Another Vs.**

State of U.P. and Another, 2024 SCC OnLine 726, (ii) Delhi Race Club (1940) Ltd. Vs. State of U.p. (2024) 10 SCC 690 and (iii) Rikhab Birani and Another Vs. State of U.P. and Another, 2025 SCC OnLine SC 829. On the above conspectus, the learned counsel for petitioners would thus submit that present writ petition is liable to be allowed by this Court.

6. Per contra, the learned A.G.A. representing State/respondents 1 and 2 has vehemently opposed this writ petition. According to the learned A.G.A., the F.I.R. has been lodged under Sections 420 and 406 I.P.C. The material collected by Investigating Officer during course of investigation shall determine as to whether petitioners are liable to be charge sheeted under Sections 420 or 406 I.P.C. Therefore, at this intermediate stage, the submissions urged by the learned counsel for petitioners in support of present writ petition do not stand attracted. Learned A.G.A. has then taken the Court to the body of the F.I.R. and on basis thereof, he submits that it is apparent from record that a sum of Rs. 25, 20,000/- was transferred to the petitioners by way of online transactions. He, therefore, submits that in view of the mode of payment made by first informant/respondent-3 is clearly proved from record. However, the possession in respect of the land sold by petitioners has not yet been handed over to first informant/respondent-3. Apart from above, it has also been alleged in the F.I.R. that the petitioners have executed the sale deed over and above their shares, therefore, the allegation made in the F.I.R. is the right of the vendor to execute the sale deed in respect of the area mentioned in the sale deed and not the contents of the sale deed. On the above conspectus, the learned A.G.A. would thus submits that no interference is warranted by this Court in present writ petition.

7. When confronted with above, the learned counsel for petitioners could not overcome the same.

8. Having heard the learned counsel for petitioners, the learned A.G.A. for State/respondents 1 & 2, upon perusal of record and considering the objections raised by the learned A.G.A. in opposition to present writ petition, as noted herein above, we find that the same are clearly borne out from record. As a result, no interference is warranted by this Court in present writ petition

9. In view of above, present writ petition fails and is liable to be dismissed.

10. It is accordingly dismissed.

11. Interim order, if any, stands vacated.

(Achal Sachdev,J.) (Rajeev Misra,J.)

March 24, 2026

YK