



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 2349 of 2026

Romendra Mehta

.....Applicant(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Applicant(s)	: Aditya Gupta, Sanjai Srivastava
Counsel for Opposite Party(s)	: Amrita Rai Mishra, Alok Ranjan Mishra, G.A.

Reserved on – 07.05.2026

Delivered on - 04.06.2026

Court No. - 34

HON'BLE CHAWAN PRAKASH, J.

1. Heard Mr. Vinay Saran, learned Senior Advocate, assisted by Mr. Aditya Gupta and Mr. Sanjai Srivastava, Advocates; Mr. Gopal Swarup Chaturvedi, learned Senior Advocate, assisted by Mr. Alok Ranjan Mishra and Ms. Amrita Rai Mishra, learned counsel for opposite party No. 2; and the learned A.G.A. for the State.

2. This application under Section 528 BNSS assails the summoning order dated 22.08.2024 passed by the learned Additional Chief Judicial Magistrate, Court No. 1, Kanpur Nagar, and the order dated 28.07.2025 passed by the learned Additional Sessions Judge, Court No. 18, Kanpur Nagar.

3. The dispute arises from a First Information Report lodged by opposite party No. 2 as Case Crime No. 200 of 2023, under Sections 198, 199, 205 and 420 I.P.C., at Police Station Kotwali, District East

Commissionerate, Kanpur Nagar, against the applicant, with the allegation that in the year 2020, the applicant applied for issuance of a character certificate in the office of the District Magistrate, Kanpur Nagar. It is further alleged that, in order to obtain that certificate, he deceived the Inquiry Officer into giving a false report and concealed the fact of registration of F.I.R. as Case Crime No. 128 of 2018 under Sections 406, 409, 420, 467, 468, 471 and 120B I.P.C. at Police Station Swaroop Nagar, District Kanpur Nagar. It is further alleged that the applicant deliberately suppressed the fact that he was summoned in that case and thereby succeeded in obtaining Character Certificate No. 249/A.R.A.-1/2020-21 dated 29.06.2021.

4. The Investigating Officer recorded the statements of opposite party No. 2 and other witnesses and collected documentary evidence. On the basis of the evidence collected during the investigation, he found that no offence was made out against the applicant. Thereafter, a final report under Section 173(2) Cr.P.C. was filed in Court on 17.03.2024.

5. Opposite party No. 2 filed a protest petition before the Court of the learned Additional Chief Judicial Magistrate-I, Kanpur Nagar. The learned Magistrate rejected the final report and took cognizance against the applicant under Sections 198, 199 and 420 I.P.C. vide order dated 22.08.2024.

6. The applicant filed Criminal Revision No. 593 of 2024 against the impugned summoning order. The learned Additional Sessions Judge, Court No. 18, Kanpur Nagar, dismissed the said criminal revision vide order dated 28.07.2025. Feeling aggrieved by the impugned orders, the present application has been filed.

7. Learned counsel for the applicant assails the impugned orders on the following grounds:

(i) The summoning order dated 22.08.2024 suffers from serious legal infirmities, as there was no material to justify the summoning of the applicant. Opposite party No. 2 suppressed the material fact that he

simultaneously moved an application/complaint on 21.04.2023 before the District Magistrate, Kanpur Nagar, with a prayer to cancel the above-mentioned character certificate. The concerned authority conducted a detailed and thorough investigation. Thereafter, on the basis of such report, the District Magistrate rejected the said complaint vide order dated 12.09.2023 as frivolous and without any ground.

(ii) He further states that after registration of F.I.R. as Case Crime No. 200 of 2023, under Sections 198, 199, 205 and 420 I.P.C. at Police Station Kotwali, District East Commissionerate, Kanpur Nagar, the Investigating Officer collected oral and documentary evidence and found that the applicant had not committed any offence and filed a final report. Thereafter, opposite party No. 2 filed a protest petition, and the learned Magistrate rejected the said final report and summoned the applicant under Sections 198, 199 and 420 I.P.C.

(iii) The learned Magistrate has failed to appreciate the fact that no ingredients have been made out to constitute the offence under Sections 198, 199, and 420 I.P.C., as there does not exist any intent or *mens rea* on the part of the applicant.

(iv) He further submits that, as per Section 195(1)(b)(i) Cr.P.C., no Court can take cognizance of Section 199 I.P.C. except on the complaint in writing of the Court or by such Officer of the Court as that Court may authorize in writing in this behalf. The provisos of Section 195 Cr.P.C. are mandatory, and non-compliance thereof would vitiate the prosecution and all other consequential orders. Sections 198 and 199 I.P.C. are non-cognizable offences; therefore, the impugned order by which the learned Magistrate took cognizance and summoned the applicant is not only illegal but also a sheer misuse of law.

(v) Considering the case of the prosecution at its best, but not accepting a word, no offence under Section 420 I.P.C. is made out against the applicant under any stretch of imagination. The informant neither acted nor parted with any property upon any misrepresentation made by the

applicant, nor did he refrain from doing anything which he would have done or not done otherwise; hence, no offence under Section 420 I.P.C. is made out at all.

(vi) The continuation of criminal proceedings at the instance of opposite party no. 2 is motivated and constitutes an abuse of the process of Court, which warrants the exercise of this Court's inherent jurisdiction under Section 528 BNSS to quash the impugned summoning order. Reliance in this regard is placed on **State of Haryana & Ors. v. Bhajan Lal & Ors., AIR 1992 SC 604** and **Pradeep Kumar Kesarwani v. State of U.P., (2025) SCC OnLine 1947**.

8. *Per contra*, learned Counsel for opposite party no. 2 supports the summoning order and, in substance, submits as follows:

(i) A summoning order is not required to be an elaborate or detailed order, as held by the **Hon'ble Supreme Court in Bhushan Kumar & Anr. v. State (NCT of Delhi), (2012) 5 SCC 422**. It is submitted that at the time of summoning any person, the Magistrate merely needs to form an opinion that there is sufficient ground to proceed and is not mandated to record detailed reasons. The impugned order, in any event, is a detailed and speaking order. The learned Magistrate has taken into consideration all evidence available on the record and found that a *prima facie* case is made out against the applicant.

(ii) He further submits that once the Magistrate has exercised this statutory power and recorded a *prima facie* view, the applicant cannot seek re-appreciation of factual aspects in an application under Section 528 BNSS.

(iii) At the stage of registration of the F.I.R., the question of locus standi is wholly irrelevant. The informant need not be the victim of the offence.

(iv) The offence of cheating is complete the moment deception is practised on the person induced, regardless of who reports the matter to law enforcement.

(v) The First Information Report, *prima facie*, discloses the commission of a cognizable offence. Section 415 IPC defines cheating and operates through two limbs. The second limb is attracted where a person, by deceiving another, intentionally induces that person to do or omit to do anything which they would not do if not so deceived, and such act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property. On the facts, the applicant, by active suppression and wilful concealment of material facts pertaining to his criminal antecedents, deceived and intentionally induced the competent public authority to issue a certificate of good character. It is an admitted position that the public authority, while discharging its statutory duties, would not have issued the said certificate had the true and correct facts been disclosed by the applicant.

(vi) The active concealment of material facts that a person is duty-bound to disclose, amounts to deception under the Explanation to Section 415 I.P.C. The essential elements of deception, dishonest inducement, and consequential act of the deceived authority stand *prima facie* established from the record. The character certificate qualifies as property within the meaning of Section 415 I.P.C.

(vii) The F.I.R. and the investigation material collected thus far *prima facie* disclose the commission of an offence punishable under Section 420 I.P.C. The learned Magistrate has not committed any illegality in rejecting the final report, as a *prima facie* case is made out against the applicant. The learned Additional Sessions Judge has also not committed any illegality in rejecting the criminal revision. In support of his argument, he placed reliance on **Kanumukkala Krishnamurthy v. State of A.P., (1965) 0 Cr.LJ 355**, **Sheo Nandan Paswan v. State of Bihar, (1987) 1 SCC 288** and **Niharika Infrastructure Private Limited v. State of Maharashtra, (2021) 223 AIC 3**.

9. After hearing the submissions of both sides and perusing the record, the following questions arise for consideration in this application:

(i) Whether, even assuming that the applicant did not disclose the pendency of the criminal case at the time of applying for the character certificate, the material available on record discloses the essential ingredients of cheating under Section 420 I.P.C., including the requirement of deception, dishonest or fraudulent inducement, and consequential delivery of property or injury.

(ii) Whether the continuation of the criminal proceedings, in the totality of the circumstances, amounts to an abuse of process warranting interference under Section 528 BNSS, applying the principles in **Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330**, and more recent decisions such as **Pradeep Kumar Kesarwani** (*supra*).

10. Sections 420 IPC is not stand-alone offences. It is in consequences of cheating as defined in Section 415 IPC. Section 420 deals with cheating coupled with dishonest inducement leading to the delivery of property or interference with a valuable security. The statutory sequencing is explicit: Section 420 begins with the words, "whoever cheats and thereby dishonestly induces..." Unless the ingredients of Section 415 are first disclosed, Section 420 can be pressed into service.

11. Section 415 embodies a defined structure for construing the offence. The prosecution must show deception, followed by inducement of the kind the statute recognizes, backed by the requisite *mens rea* at the inception. In one branch, the inducement must be "fraudulent or dishonest" and must result in the delivery of property or consent to the retention of property. In the other branch, the inducement must lead the deceived person to do or omit an act that he would not otherwise do or omit, and the act or omission must cause, or be likely to cause, harm to body, mind, reputation, or property. This is not a provision that criminalizes every act of sharp practice; it criminalizes deception only when it is tethered to the particular consequences the statute identifies.

12. The Code itself preserves the distinction between "dishonestly" and "fraudulently." Section 24 defines "dishonestly" by reference to wrongful gain or wrongful loss. Section 25 defines "fraudulently" as acting with intent to defraud. The Supreme Court, in **Dr. Vimla v. Delhi Admn, (1962) SCC OnLine 172**, explains that "defraud" is not exhausted by deceit. It requires deceit followed by injury to the person deceived, and that injury need not be purely economic; it can include harm to body, mind, reputation, or other legally cognizable detriment. But the injury cannot be assumed. It must be anchored in the facts alleged and the statutory consequence asserted.

13. On the complainant's own case, the "dishonesty" limb fails at the threshold. Dishonesty under Section 24 IPC requires an intention to cause "wrongful gain" or "wrongful loss," as defined in Section 23 IPC, namely, gain of property by unlawful means to which the person gaining is not legally entitled, or loss of property by unlawful means to which the person losing it is legally entitled.

14. The main allegation against the applicant is that, while applying for a character certificate in the year 2020, he did not disclose about the F.I.R. as Case Crime No. 128 of 2018 under Sections 406, 409, 420, 467, 468, 471, and 120B I.P.C., Police Station Swaroop Nagar, District Kanpur Nagar was registered against him. Thereafter, a character certificate bearing No. 249/A.R.A.-1/2020-21 was issued on 29.06.2021. According to the facts of this case, before lodging the present F.I.R. as Case Crime No. 200 of 2023, opposite party no. 2 made an application to the District Magistrate, Kanpur Nagar, on 21.04.2023, stating that the applicant applied in your office in the year 2020 for obtaining a character certificate and the applicant, with the intention of fraudulently obtaining the character certificate, deceived the Investigating Officer by wilfully and deliberately suppressing the fact of First Information Report No. 128 of 2018. He further alleged that the applicant had already been summoned by the Court of the Chief Judicial Magistrate. The said character certificate may be cancelled.

15. Thereafter, the concerned authority conducted a detailed and thorough investigation. The District Magistrate, Kanpur Nagar, vide order dated 12.09.2023, rejected the said complaint as frivolous and without any grounds.

16. After filing the above-mentioned complaint dated 21.04.2023 before the District Magistrate, Kanpur Nagar, opposite party no. 2 lodged the present F.I.R. as Case Crime No. 200 of 2023 under Sections 198, 199, 205, and 420 I.P.C. at Police Station Kotwali, East Commissionerate, District Kanpur Nagar, on 20.04.2023, with almost the same allegations that were made in the complaint dated 21.04.2023. After registration of the F.I.R., the Investigating Officer recorded the statement of opposite party no. 2, along with those of other witnesses, and also collected documentary evidence and found that no offence was made out against the applicant. Thereafter, a final report under Section 173(2) Cr.P.C. was filed on 17.03.2024. Opposite party no. 2 filed a protest petition, and the learned Magistrate rejected the said report and summoned the applicant under Sections 198, 199, and 420 I.P.C.

17. As per the First Information Report, the main allegation against the applicant is that he did not disclose the registration of the criminal case and obtained the character certificate. Opposite party no. 2 has not alleged that, for obtaining the said character certificate, the applicant had any intention to cause wrongful gain to himself or wrongful loss to opposite party no. 2. On these allegations, no intention to cause wrongful gain to the applicant or wrongful loss to opposite party no. 2 can even be inferred. The foundational mental element of dishonest cheating is, therefore, absent.

18. The Section 420 charge fails for a second, independent reason. Section 420 is not attracted by every false representation. It is attracted only where cheating results in dishonest inducement leading to the delivery of property or the making, altering, or destruction of a valuable security. The law insists on a clear causal bridge between the deception and a property-centric consequence. In that sense, Section 420 is

narrower than it appears at first glance: it punishes cheating only when it culminates in the kind of legally recognisable consequence described in the section.

19. This is why the Supreme Court has repeatedly stated that Section 420 necessarily postulates cheating under Section 415, with dishonest inducement resulting in the delivery of property or interference with a valuable security, as contemplated in the statute. The same caution runs through decisions such as **Mohd. Ibrahim v. State of Bihar, (2009) 6 SCC 751**: unless the complaint itself discloses the statutory ingredients, the court does not send parties to trial on a theory that the missing links may emerge later.

20. The point becomes clearer when one sees how the Supreme Court applies these principles to real disputes. In **Mariam Fasihuddin & Ors. v. State & Ors., MANU/SC/0051/2024**, even proceeding on the assumption that the mother had forged the father's signatures on their child's passport application, the Supreme Court declined to treat it as cheating under Section 420 because the complainant was not induced to deliver property or a valuable security, and no proprietary prejudice to him was shown. Deception, even if assumed, was not enough; what mattered was the absence of the statutory consequence that gives the offence its criminal character.

21. In **Jupally Lakshmikantha Reddy v. State of Andhra Pradesh & Ors., 2025 INSC 1096**, the Court dealt with a claim that a "false NOC" was used to obtain a recognition certificate from the School Education Department to run their educational institution. The Court found that the NOC was actually not required in the facts, and therefore the alleged false representation did not induce the authority to act in a manner it would not otherwise have acted. The missing link of material inducement and resultant legal prejudice proved fatal. These decisions are reminders that Section 420 is not a net cast wide enough to catch every allegedly false document. The deception must be material, causative, and productive of the statutory consequence

22. When these principles are applied to the present case, the offence under Section 420 is not made out. The only allegation against the applicant is that he did not disclose about the criminal case registered against him while applying for issuance of character certificate.

23. Having found the element of dishonest inducement to be absent, the summoning order seeks to sustain the charge by invoking the alternative mental element under Section 415, namely alleged "harm to mind". As noticed earlier, injury to mind is the species of injury through which the law recognises fraudulent intention - fraud being deceit coupled with injury. The difficulty is not with the proposition that mental injury can, in principle, be relevant. In fact, **Dr. Vimla** (*supra*) recognises that "injury" for purposes of "defraud" may extend beyond economic loss, to include "harm to mind". The impediment lies in converting a bare sense of grievance into statutory injury that is required to supply the missing *mens rea* and consequence.

24. In **Dr. Vimla**, the Supreme Court emphasised that the alleged injury or advantage must be grounded in the facts of the case and the nature of the charge. There, the charge and evidence disclosed neither advantage nor injury to the insurance company who were in no manner prejudiced and would have acted no differently even if the true facts had been disclosed, and thus, the conviction was set aside. In the present case, the applicant failed to disclose about the detail of the criminal case registered against him. The only "harm in mind" identified is that the applicant has not disclosed about the criminal case registered against him before the District Magistrate, Kanpur Nagar. Such abstract displeasure falls far short of the injury, which the law may comprehend as harm to body, mind, reputation, or deprivation of a legal right. In the absence of either dishonest inducement or fraud-induced legally cognisable injury, the offence of cheating under Section 415 IPC is not disclosed. Once cheating under Section 415 is not made out, the charges under 420 necessarily collapse.

25. Section 195 (1)(b) Cr.P.C. reads:

“195. Prosecution for contempt of lawful authority of public servant, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance-

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii).

[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.]”

Provisions of Section 195 of the Code are mandatory and non-compliance of it would vitiate the prosecution and all other consequential orders as held in the case of '**C. Muniappan V State of Tamilnadu, AIR 2010 SC 3718.**

26. Contents and ingredients of Sections 198 and 199 of Indian Penal Code are being reproduced hereinbelow:

198. Using as true a certificate known to be false.

Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

199. False statement made in declaration which is by law receivable as evidence.-

Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law, to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

27. As per the definition of Section 198 Indian Penal Code, whoever corruptly uses or attempts to use any such certificate as true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. As per the present case, the character certificate was issued in favour of the applicant by the District Magistrate, Kanpur Nagar after due inquiry. The said certificate was issued by a competent authority. The said certificate is not a forged or fabricated document and has not been declared a false certificate by any of the authority. Hence, the ingredients as stated in Section 198 of Indian Penal Code are not fulfilled.

28. As per the summoning of the applicant under Section 199 I.P.C. is concerned, no Court can take cognizance of any offence punishable under Section 199 I.P.C. except on the written complaint by the Court or by such Officer of the Court as that Court may authorize in writing in this behalf or some other Court to which that Court is subordinate.

Here, the application for issuance of the character certificate was made to the District Magistrate, Kanpur Nagar and the District Magistrate, after due inquiry, had issued the said character certificate. The complaint was not made by the District Magistrate or any other Officer empowered by him. Hence, the summoning order passed by the Magistrate under Section 199 I.P.C. is bad in the eyes of law.

29. I have gone through the citations filed by the learned Counsel for opposite party no.2 but the facts as stated in these citations are different to the facts of the present case and no benefit can be granted to opposite party no.2 about the principles as passed by in these citations.

30. The remaining question is whether, notwithstanding these deficiencies, the Petitioners must still be put through the rigours of a full criminal trial on the footing that all these issues can be left to be tested at the stage of charge or final judgment. The governing principles are now well settled.

31. In **Bhajan Lal** (*supra*), the Supreme Court set out illustrative categories in which the High Court may exercise its inherent powers to quash proceedings. One such category is where the uncontroverted allegations and the material collected do not disclose the commission of any offence. Another, of particular relevance here, is where a criminal proceeding is manifestly attended with mala fide or is maliciously instituted with an ulterior motive for wreaking vengeance or with a view to spite the accused due to private or personal grudge.

32. In **Rajiv Thapar** (*supra*), the Court refined the approach by formulating a four-step enquiry for quashing based on defence material which is of such sterling quality that no prudent person could ignore it. The framework, which has been followed in later decisions including **Pradeep Kumar Kesarwani**, requires the Court to ask: whether the material relied upon by the accused is sound and indisputable; whether it directly undermines the factual assertions in

the complaint; whether it remains unrebutted: and whether, in the face of such material, continuation of the proceedings would amount to an abuse of process.

33. For these reasons, and confining the discussion to the core offences under Sections 198, 199 and 420 I.P.C., this Court is satisfied that even if the complainant's allegations are taken at their highest, the essential ingredients of cheating and forgery as explained in **Dr Vimla, Mariam Fasihuddin** (*supra*), and **Jupally Lakshmikantha Reddy** (*supra*), are not disclosed. There is no deception-linked deprivation or loss of property, no legally cognizable interference with a valuable security, and no identified maker of a false document who can be fastened with the requisite *mens rea*.

34. The inherent jurisdiction under Section 528 BNSS exists to prevent criminal process from being used where the prosecution, even on its own showing, has no realistic prospect of culminating in conviction. This is such a case. Allowing the proceedings to continue would not vindicate the criminal law; it would merely prolong a business related personal dispute in the garb of serious penal charges.

35. The application is, therefore, **allowed**. The summoning order dated 22.08.2024, passed by the learned Additional Chief Judicial Magistrate-I, Kanpur Nagar in Misc. Case No. 732 of 2024, Rajeeve Talraje v. Romendra Mehta, and the revisional order dated 28.07.2025, passed by the learned Additional Sessions Judge, Court No.18, Kanpur Nagar in Criminal Revision No. 593 of 2024, Romendra Mehta v. State of U.P., are **set aside**. All the proceedings arising out of Misc. Case No. 732 of 2024, Rajeeve Talraje v. Romendra Mehta, are **quashed**.

(Chawan Prakash,J.)

June 04, 2026

Vijay