

Court No. - 74

Case :- APPLICATION U/S 528 BNSS No. - 30732 of 2025

Applicant :- Dau Dayal

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ashish Goyal

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Pachori,J.

Supplementary affidavit filed today is taken on record.

Sri Ashish Goyal, learned counsel for the applicant and Sri Rahul Pandey, learned brief holder for the State are present.

The present application under Section 528 of Bharatiya Nagarik Suraksha Sanhita has been filed to quash the entire proceedings of Complaint Case No. 2193 of 2022 as well as cognizance/ summoning order dated 07.02.2023, by which the learned Magistrate took cognizance under Sections 420, 406 of IPC, Police Station- Sikandra, District Agra, pending in the court of Additional Chief Judicial Magistrate, Court No. 5, Agra.

Learned counsel for the applicant submitted that impugned complaint dated Nil has been filed on the basis of false and frivolous allegations with ulterior motive and only to harass the applicant. It is further submitted that as per the allegations of complaint, there is breach of terms of contract to sell and purchase the land. It is further submitted that all the allegations are related to civil dispute. and in this regard a civil suit being Original Suit No. 235 of 2020 (Dau Dayal vs. Manoj Giri and others) for a decree of permanent prohibitory injunction is pending between the parties. It is further submitted that the complainant has converted a civil dispute into a criminal case.

It is further submitted that cognizance order has been passed without considering the essential ingredients of offence punishable under Sections 406, 420 of I.P.C. for same set of acts respectively. Learned counsel for the applicant relied upon the judgment of Apex Court in **Delhi Race Club (1940) Ltd. vs. The State of Uttar Pradesh & Anr., 2024 SCC OnLine SC 2248.**

Prima facie, matter requires consideration.

Notice on behalf of opposite party no. 1 has been accepted by

learned A.G.A.

Issue notice to private opposite party no. 2 through C.J.M. concerned, returnable at an early date.

Private opposite party no. 2 may file a counter affidavit within three weeks.

Rejoinder affidavit may thereafter be filed within one week.

List this case after eight weeks.

Until further orders, further proceedings of aforesaid case shall remain stayed against the applicant.

Order Date :- 21.8.2025

MAA/-