



3. The brief facts necessary for the adjudication of the present appeal are as follows:

3.1. The complainant-respondent No. 2 is stated to be running a jewellery shop in Agra. It is alleged that the appellant approached him and during the period between 11.10.2015 and 29.06.2016, purchased silver jewellery goods from him on credit basis, amounting to approximately Rs. 11 lakhs. As per the complainant, an amount of Rs. 5,24,929/- still remains outstanding against the appellant despite several demands.

3.2. The complainant filed an application under Section 156(3) of the Code of Criminal Procedure, 1973 (in short, CrPC) on 31.01.2018. Pursuant thereto, Complaint Case No. 908251 of 2018 came to be registered and proceedings were initiated against the appellant under Sections 420, 406, 504 and 506 IPC.

3.3. The Trial Court took cognizance and issued summoning order against the appellant under Section 406 IPC on 11.02.2019.

3.4. Aggrieved, the appellant filed Criminal Misc. Application No. 29836 of 2024 before the High Court. By an order dated 04.12.2024, the Court disposed of the proceedings granting liberty to the appellant to file a discharge application before the Trial Court within three weeks and directed that the same be considered expeditiously in accordance with law.

3.5. Pursuant thereto, he filed a discharge application on 06.11.2025 contending *inter alia* that the dispute between the parties arose purely out of a commercial transaction of sale and purchase on credit basis. He also stated that substantial payments had already been made.

3.6. The Trial Court rejected the discharge application by an order dated 03.12.2025 observing that the defence sought to be raised by the appellant involved disputed questions which could only be examined upon appreciation of

evidence during trial. Therefore, no ground for discharge was made out at that stage.

3.7. Aggrieved thereby, the appellant preferred Criminal Revision No. 1130 of 2026 before the High Court, which was dismissed *vide* the impugned order dated 16.02.2026.

4. We have heard the learned counsel appearing for the appellant and the State of Uttar Pradesh. Despite service being effected, no one has put in appearance on behalf of Respondent No. 2, the complainant.
5. The short question which falls for consideration before this Court is whether the allegations made in the complaint disclose the commission of an offence punishable under Section 406 IPC.
6. The offence of criminal breach of trust as defined under Section 405 IPC lays down the following ingredients:
  - i. The accused was entrusted with property, or entrusted with dominion over property;
  - ii. The accused had dishonestly misappropriated or converted to their own use that property, or

dishonestly used or disposed of that property or wilfully suffers any other person to do so; and

- iii. Such misappropriation, conversion, use or disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract.

7. As can be inferred, entrustment constitutes the foundational ingredient of the offence of criminal breach of trust. This Court in ***State of Gujarat v. Jaswantlal Nathalal***<sup>2</sup> discussed the meaning of the term 'entrustment'. It was as follows:

*“8. ... The expression “entrustment” carries with it the implication that the **person handing over any property or on whose behalf that property is handed over to another, continues to be its owner.** Further the person handing over the property must have confidence in the person taking the property so as to **create a fiduciary relationship between them.** A mere transaction of sale cannot amount to an entrustment. ...”*

What emerges from the aforesaid exposition is that the ownership in the property continues to remain

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2 AIR 1968 SC 700.

vested in the person entrusting it. It is the possession alone which is parted with for a specific purpose. The person receiving such property is expected to deal with it in the manner directed by the entrustor and not otherwise. A transaction of sale, on the other hand, stands on an entirely different footing, inasmuch as the ownership in the goods itself stands transferred from the seller to the purchaser.

8. In the present case, the allegations made in the complaint indicate that the goods in question, silver anklets, were supplied by the complainant to the appellant in the course of a business transaction recorded under various invoices raised during the period between 11.10.2015 and 29.06.2016. The complainant has nowhere alleged that the goods were entrusted to the appellant for safe custody, agency or for being dealt with in any fiduciary capacity. On the contrary, the tenor of the complaint is clear enough to show that the transactions between the parties were in the course of ordinary commercial dealings of sale and purchase, pursuant whereunto part-payments are admittedly stated to have been made by the appellant. As is reflected from the

record, an amount of Rs. 5,24,929/- remains outstanding. In such circumstances, the mere allegation of non-payment of the remaining amount due, by itself, cannot give rise to an offence of criminal breach of trust. The dispute, in substance, arises out of alleged non-payment of outstanding dues, for which the appropriate remedy would lie under the civil law.

9. It is also significant to note that the complainant, both in his complaint as well as his statement recorded under Section 200 CrPC., admitted that payments had been received from the appellant during the course of business dealings and that only an amount of Rs. 5,24,929/- allegedly remained outstanding.

10. Applying the aforesaid principles to the facts of the case, we find that the allegations made in the complaint fail to disclose the essential ingredient of 'entrustment' necessary for constituting the offence punishable under Section 406 IPC. As noticed hereinabove, the transaction between the parties was purely commercial in nature. Once the goods were supplied, their relationship became one of

buyer and seller and any alleged failure to clear the outstanding dues could at best give rise to civil consequences.

11. At the stage of discharge, all that is required to be seen is whether a prima facie case is made out and whether sufficient ground exists for proceeding against the accused. In the present case, an examination of the complaint and the statements recorded under Sections 200 and 202 of CrPC would show that the case of the complainant is essentially that jewellery items were supplied to the appellant and that a part of the total consideration remained unpaid. The complainant in his own statement has stated that payments were made in instalments and that only the alleged balance amount remained outstanding. The statements of other two witnesses are also broadly to the same effect, namely, that the appellant had taken jewellery goods on credit and had failed to clear the remaining dues. Significantly, neither the complaint nor the statements recorded during inquiry disclose that the goods were entrusted to the appellant in any fiduciary capacity or that the appellant was

under any obligation to hold or deal with the same on behalf of the complainant.

12. On the basis of material placed on record, we are of the opinion that the charge against the appellant is groundless. No sufficient reason exists for continuing the criminal proceedings against the appellant for the offence punishable under Section 406 IPC.
13. The appeal is accordingly allowed. The impugned order of the High Court dated 16.02.2026 is set aside. The discharge application is allowed. Consequently, Complaint Case No. 908251 of 2018 titled 'Saurabh Bansal v. Rahul Agarwal' pending before the Additional Chief Judicial Magistrate, Court No. 04, Agra shall stand quashed.
14. It is clarified that this Court has expressed no opinion on the civil rights and liabilities of the parties arising out of the transactions in question. It shall remain open to the complainant to avail such remedies as may be available in law.

15. Pending application(s), if any, shall stand disposed of.

.....J.  
[VIKRAM NATH]

.....J.  
[SANDEEP MEHTA]

.....J.  
[VIJAY BISHNOI]

**NEW DELHI;  
MAY 14, 2026.**

ITEM NO.20

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).  
5416/2026

[Arising out of impugned final judgment and order dated  
16-02-2026 in CRR No. 1130/2026 passed by the High Court of  
Judicature at Allahabad]

RAHUL AGARWAL

Petitioner(s)

VERSUS

STATE OF U.P. & ANR.

Respondent(s)

IA No. 93195/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT

IA No. 93197/2026 - EXEMPTION FROM FILING O.T.

Date : 14-05-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE VIKRAM NATH  
HON'BLE MR. JUSTICE SANDEEP MEHTA  
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) : Mr. Niteen Kumar Sinha, AOR  
Mr. Prasanna Mohan, Adv.  
Mr. Chirag Joshi, Adv.  
Mr. Prashant Gautam, Adv.  
Mr. Prajanya Sharma, Adv.  
Mr. Ram Avtar Sharma, Adv.  
Mr. Maneesh Saxena, Adv.

For Respondent(s) : Mr. Sarvesh Singh Baghel, AOR  
Mr. Shaurya Krishna, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed  
order.

Pending application(s), if any, shall stand  
disposed of.

(SONIA BHASIN)  
ASSISTANT REGISTRAR-CUM-PS

(RANJANA SHAILEY)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)

CRL..A.NO.....2026@SLP(CRL.) NO.5416/2026